

not be construed to have, such an extensive meaning. The local body evidently considered that the businesses of ironmongers and hardware-shopkeepers might be thought to be separate businesses, and that as the requisition purported to be signed by the majority of the occupiers of the ironmongery and hardware shops in Nelson, it was necessary to add the words "combined and separately" as including these businesses, whether carried on by the shopkeeper as one business or as separate businesses. The words "combined and separately" are used in this sense in a certificate given by the same local authority, and followed by a direction from the Minister on the same date, in reference to the businesses of chemists, druggists, and herbalists.

While "ironmongery" and "hardware" may be said to be convertible terms, it may perhaps be that, while "ironmongery" includes all hardware, "hardware" does not include all ironmongery. The definition of "ironmongery" and "hardware" in the Century Dictionary supports this view. I am satisfied that it was in the sense I have mentioned that the words were used, and that they cannot be construed as conveying to the Minister a meaning larger than that included in the terms of the requisition.

The other point was submitted by counsel for respondent, and was that the requisition was bad in substance, as it purported to contract the hours during which the shops should be open, and was therefore repugnant to a statutory right to remain open up to the hours permitted by section 3 of the Act. That section is, however, "subject to the provision of the Act." It regulates the hours of shop-assistants, and these may be, where the shops are within a borough not forming part of a combined district, and having a population of 5,000 or upwards up to 1 o'clock on the afternoon of the statutory holiday, and up to 9 o'clock in the evening of one working-day in each week or 6 o'clock in the evening of any other working-day. The hours of closing fixed by the requisition cut out any evening, and fixed the hours of closing on five days of the week at 5.30 p.m., and on Wednesdays (the statutory half-holiday) at 1 p.m. I think that section 3 must be read as controlled by section 25, and that, as section 25 provides that the shops shall be closed in accordance with the requisition, the hours of closing are those fixed by the requisition, and not those within which assistants may be employed under section 3, where there has been no requisition. This is, I think, made clear by subsection (4) of section 25, which enacts that "working" in this section shall be construed as permitting any shop to remain open on any statutory closing-day after the prescribed time of closing." Whether the shop-assistants can be legally kept at work in the shop after the shop has been closed for business at the hour of closing as fixed by the requisition, and up to the hours mentioned in section 3, and on one late night during the week, is a question which does not arise in the present case. All I decide is that shops must be closed according to the hours mentioned in the requisition.

The appeal is under Part IX of the Justices of the Peace Act, 1908. The Magistrate who heard and dismissed the information has, I understand, ceased to hold office, and another Magistrate has been appointed in his place. Under section 296 of the Justices of the Peace Act the Supreme Court may, upon reversing the Magistrate's decision, remit the matter to the Magistrate, with the opinion of the Court thereon, or make such order in relation to the matter as it thinks fit. Under the circumstances now existing, I think the proper order to make is to reverse the decision of the Magistrate, and to remit the case to the present Magistrate, with a direction to rehear the information, and with a direction that in the opinion of the Court the matters stated in the case on appeal afford no defence to the information, and that the requisition, the certificate, and the notice by the Minister are respectively valid and effective. As the main question which has been argued is one of difficulty, and one upon which there has hitherto been no decision of this Court, I do not order the respondent to pay the costs of the appeal.

MAGISTRATE'S COURT HOLDEN AT WAIPAWA.

Thursday, 5th August, 1909. Before Mr. S. E. McCarthy, S.M.

Inspector of Factories v. a Local Baker and his Employee. (Five informations.)

Three informations alleging:—

- (1.) That the defendant, did fail to keep a time and wages book as required by the Industrial Conciliation and Arbitration Act.
- (2.) Being the occupier of a shop, did, on the 30th day of June, 1909, employ a carter after the hour of 1 o'clock in the afternoon of the statutory half-holiday under the Shops and Offices Act.
- (3.) Being the occupier of a factory, did fail to exhibit and maintain in some conspicuous place the notice required by subsection (2) of section 17 of the Factories Act.
- (4.) Statement of claim alleging that the defendant, being an employer bound by terms of the Wellington Bakers' award, did employ a baker between the 5th day of May, 1909, and the 30th day of June, 1909, and failed to pay him the minimum wage of £2 10s. per week as required by the award.
- (5.) Statement of claim alleging that an employee, the defendant in above case, did work for an employer bound by the terms of the before-mentioned award, from the 5th day of May, 1909, to the 30th June, 1909, and failed to claim the minimum wage of £2 10s. by the week.

These informations and claims were heard on the 22nd day of July, 1909, when judgment was reserved, which is now given as follows:—

These cases were all heard together, as the facts relating to each were so intertwined that that seemed the more convenient way of dealing with them. The facts are that the first defendant is a master baker bound by the terms of the Wellington Bakers' award made on the 28th May, 1908, and, within the Borough of Waipawa, which has a population less than 5,000, occupies a bakery and a shop, which are separate buildings, though the trades carried on therein are treated as one business. In the