

as a rule, supply meals, but only light refreshments of a particular kind, and therefore would not come within the meaning of the word "restaurant" as defined in section 2 unless specially included. Furthermore, the greater number of the premises which are commonly known as restaurants, in the ordinary sense of the term, would be outside the definition of a restaurant if the inclusive reading were correct. The meaning of the general words of the definition must be considered, and if an establishment of the description of "Glenalvon" does not come within their meaning it will be necessary to consider the exact meaning of the term "private hotel" as used in section 2. The admitted facts of the case are sufficiently clear to remove any difficulty in deciding whether or not "Glenalvon" comes within the meaning of the definition. The proprietress does not, to use the words of section 2, "provide and sell meals to the general public." Meals are provided for lodgers and their guests, but there is nothing in the nature of a restaurant trade. Casual lodgers who do not intend to remain for two days in the house are not catered for, and it cannot be contended that the provision of meals for lodgers and their guests is equivalent to providing meals for the general public—that is, for anybody who may wish to enter the house and ask for a meal. In any case the meals supplied to lodgers' guests are in point of fact sold to the lodgers, not to the guests themselves. I do not consider that the existence of a daily and a weekly tariff affects the position, such an arrangement being intended merely for simplifying the calculation of charges in the case of persons making a comparatively short stay, and also as a concession to those who wish to remain for a longer period. I am satisfied that "Glenalvon" is not a house of the class intended by the general words of the definition.

It remains now to determine what meaning is to be given to the term "private hotel." It has not yet been exhaustively defined by the Court. In the case of the Duke of Devonshire v. Simmons (39 Solicitors' Journal, 1894, p. 60), Stirling, J., speaks of a "private hotel" as a dwellinghouse for persons who wish to dwell there, but does not attempt a further definition. In New Zealand "private hotels" have been referred to by the Arbitration Court as "boardinghouses under another name" (Book of Awards, Vol. X, p. 508). In the judgment in which this passage occurs His Honour Mr. Justice Sim laid stress on the difficulty of classifying boarding establishments other than licensed hotels. In delivering the judgment of the Court in the Auckland private hotels dispute, on the 4th October, 1911, the same Judge reiterated his remarks made in the former case, and stated that the Court could not make an award unless it was shown that a distinct class of private hotels existed to which an award could be fairly applied.

Has the Legislature, then, attempted by the Act of 1910 to make a distinction between the different kinds of boarding establishments? When we find the terms "hotel" and "private hotel" contained in the same section of the Act, the former being defined as "any premises in respect of which a publican's license is granted under the Licensing Act, 1908," it would appear reasonable to assume that by the term "private hotel" is meant an establishment similar to a hotel, but without the privileges and obligations which attach to the holding of a license under the Licensing Act. There are to be found in most parts of New Zealand, particularly in no-license districts, numbers of establishments which answer to this description—that is, they receive all classes of the community and cater for the general public by supplying single meals and beds for a single night, and generally fulfil all the functions of a hotel apart from the sale of intoxicants. If this be not the meaning of "private hotel" for the purposes of the Shops and Offices Act, it is strange that that term should have been used in section 2 following on (and apparently in contrast to) "hotel"; for if the Legislature had intended to bring all boarding establishments within the scope of the Act some word of more general application—"boardinghouses," for instance—would have been chosen in preference to a term which is not usually applied to ordinary boardinghouses. Further, it is a sound principle of law that where words of general meaning are not interpreted we must look to the general purpose of the Act, which in this case is the regulation of shops—that is, places where "goods are kept or exposed or offered for sale." Now, the function of a house such as "Glenalvon" is the provision of a home, permanent or temporary, and the rendering of services for its boarders, while a private hotel of the former class carries on in addition to this a distinct restaurant trade in the ordinary sense of the term—that is, it is a place where something (a meal) is sold to any one who calls for and is prepared to pay for it. That constitutes a shop trade, and is accordingly within the meaning of the Shops and Offices Acts.

The judgments of Collins, M.R., and Mathews and Cozens-Hardy, L.J.J., in *Simpson v. Ebbw Vale Steel, Iron, and Coal Company* (1905, L.K.B., 453) are in point. Again, it is laid down in *Maxwell on Statutes* (4th ed., 1905, p. 491) that where two or more words susceptible of analogous meaning are coupled together the meaning to be attached to one is ascertainable by reference to the others—*noscuntur a sociis*. The general definition of a restaurant given in the Act is a place where meals are provided and sold to the general public, while a tea-room is ordinarily known as a place where light refreshments are provided and sold to the general public, and an oyster-saloon as a place where oysters and similar articles of diet are provided and sold to the general public. In these cases the cardinal feature common to all is the selling of meals or refreshments to the general public for consumption on the premises, and this is distinctly a shop trade. The meaning of the term "private hotel" in section 2, in my opinion, must be, by analogy, any premises in which a business similar to that of a licensed hotel (with the exception of the bar trade), including the provision and sale of meals and light refreshments to the general public for consumption on the premises, is carried on. To attach any other meaning would be to hold that every boardinghouse in which an assistant is employed is subject to the provisions of the Shops and Offices Acts. It is proper to assume that had this been the intention of the Legislature it would have been expressed in clear and unmistakable language. A statute which imposes a burden on any class of the community and provides for the imposition of a penalty in the event of non-compliance must do so in unequivocal terms.

I therefore hold that a boardinghouse such as "Glenalvon" is not a private hotel within the meaning of section 2. The information is accordingly dismissed, with £1 ls. costs to the defendant.

There was an appeal taken, and it was heard before Mr. Justice Edwards, and the appeal was dismissed without calling upon respondent in the case.

Shortly after this a case was taken by the Labour Department in Wanganui against Mr. McVicar, proprietor of a boardinghouse, and was dismissed by the Magistrate. An appeal was lodged, and the judgment of Mr. Justice Cooper, contained in the *Labour Journal*, Volume 234, page 599, is as follows. There was also another case in Wanganui. The Magistrates dismissed the case, and the appeal was heard before Mr. Justice Cooper. That case was even stronger than the "Glenalvon" case. The judgment in the McVicar case is as follows:—

This is an appeal from the decision of W. Kerr, Esq., Stipendiary Magistrate at Wanganui, dismissing an information by the appellant alleging that the respondent had in 1912 committed a breach of the Shops and Offices Amendment Act, 1910, by employing a Miss Lawrence for a longer period than fifty-two hours in one week. The Magistrate found the following facts: The defendant has a "private boardinghouse" in Nixon Street, Wanganui, at which he provides board and lodging. It was upon the hearing proved that the defendant did not go in for supplying meals to the public. He gave meals to visitors coming in with boarders at 1s. 6d. or 1s. per head; also that persons not being regular boarders or lodgers, or visitors to boarders, or known to the defendant, went to his boardinghouse for single meals on one or two occasions and paid 1s. to the waitress for each such meal, and the defendant admitted in Court that if the informant, who was neither a lodger nor a boarder at the said private boardinghouse, went in and asked for a meal at the proper time he would sell the informant a meal. During the week ending 24th February, 1912, he employed a female named Ida Lawrence for a longer period than fifty-two hours (excluding meal-time) in or about the premises of such private boardinghouse. As the Magistrate's finding "that the defendant did not go in for supplying meals to the public" was ambiguous, I referred the case on appeal back to him to explain this finding, and he has amplified it by stating that "it was upon the hearing proved that it did not form part of the ordinary business of the defendant to supply meals to the public, and that he did not hold himself out as an eating-house keeper where single meals could be got as of course." In the "Glenalvon" case recently decided in Auckland by Mr. Justice Edwards, His Honour held that a private boarding