

## SHOPS AND OFFICES ACT.

*Wellington Tobacconists' Requisition under Section 21.—Decision of Stipendiary Magistrate as to Validity of Tobacconists' Requisition and of Gazette Notice.*

His Worship, in the course of his judgment, said counsel for the informant contended that the gazetting of the notice gives finality, and that the Court could not go behind it. In support, he argued that if the *Gazette* notice was not conclusive, then trouble arose; further, that the direction of the Minister by notice in the *Gazette* was a Ministerial duty, and an act of State, and as such could not be impugned by the Court. In the present case, assuming that the certificate of the Wellington City Council and the *Gazette* notification by the Minister were both good in form, he did not think that it was to be assumed that the Legislature intended that the Inspector might make an end of the sections enacted for the benefit and protection of shopkeepers, and for obtaining their real ends. It could not be assumed that the Legislature intended that everything should depend upon the mere opinion formed by a single individual, so that if misrepresented by the certificate all the occupiers' views and interests should be done away with. His Worship thought it proper that the requisition should be examined, and considered that the gazetting of the notification was not final and conclusive. The second point relied upon by counsel for the informant was that the requisition was good and valid, inasmuch as it was signed by a majority of tobacconists. The question naturally arose, Who was a tobacconist? The answer must be admitted to be—a tobacconist was one who sold tobacco, but it did not follow that every one who sold tobacco was a tobacconist. He was decidedly of opinion that grocers and storekeepers who kept side lines of tobacco were not tobacconists, any more than were hotelkeepers. They were grocers, storekeepers, and hotelkeepers, and not tobacconists. Section 21, subsection (5), of the Act of 1904 provided that for the purposes of the section the interpretation of "occupier" in section 2 was so far modified as to include only British subjects, whether by naturalisation or otherwise. As no evidence had been produced of the naturalisation of the Chinese storekeepers referred to in the evidence, he must consider them as not included in the term "occupiers." That left two classes only—tobacconists and hairdressers. As it was admitted that there was a majority of those who signed the requisition, in his opinion the requisition was a proper one, the certificate based upon it was a good one, and the *Gazette* notice was therefore valid, there being no defect in its form. The information must succeed. As the case was a genuine test case the fine would be nominal. The defendant would be fined £1 and costs.

JULY, 1906.

*Whangarei.*—(Shops and Offices Act): A draper was fined 10s., with 7s. costs, for failing to close his shop on the statutory half-holiday.

*Napier.*—(Shops and Offices Act): A chemist was fined £1, with 7s. costs, for employing an assistant later than half an hour after the prescribed hour; defendant had been previously warned by the Inspector. A tailor was charged with a like offence with respect to employing a schoolboy as shop-assistant after prescribed hour: It was shown that the boy was employed by defendant for a few hours out of school hours on five days of the week, and for longer hours on Saturday; the facts were admitted, but counsel for the defence contended that the boy was not a shop-assistant under the Act; a nominal fine was asked for by the Inspector; penalty, 5s., with 7s. costs.

*Wellington.*—(Shops and Offices Act): A hairdresser was fined 10s., with 7s. costs, for failing to close his shop at 8 o'clock on four nights of the week as per requisition from shopkeepers gazetted on the 10th May, 1906. A Chinese grocer and fruiterer was charged with failing to close his shop on the statutory half-holiday: The Inspector found accused selling goods at the rear of his shop; he had been previously convicted of a similar offence, and, in justice to other shopkeepers, the Inspector submitted that a substantial penalty be inflicted; the Magistrate thereupon fixed the amount of fine at £5, with 9s. costs, and 5s. witnesses' expenses.

*Dunedin.*—(Factories Act): A general grocer was charged with failing to register his premises as a factory: The Inspector stated that defendant was a general grocer, and at the rear of his shop tea-packing was carried on; counsel for defence argued that the case must be dismissed, as there was not sufficient evidence to prove that more than one person was employed, and on this ground the case was dismissed.

(Shops and Offices Act): A shopkeeper was charged with employing an assistant (defendant's daughter) on the statutory half-holiday: The Inspector stated that he found the shop-door open at 2.35 o'clock in the afternoon, and the girl taking money out of the till; for the defence it was stated that the girl was going to the bank to procure some change when the Inspector found her in the shop, and that access to the dwelling at the rear was to be gained only through the shop-door—it was also contended that the girl was not an assistant within the meaning of the Act, as she was a member of defendant's family; the Magistrate ruled that, in his opinion, the girl was an assistant under the Act, whether a member of defendant's family or not—he thought a breach had been committed, but, as the Inspector had not found the assistant selling or carrying on business, he must dismiss the case.

## SHOPS AND OFFICES ACT AND THE WELLINGTON COOKS AND STEWARDS' AWARD.

The following judgment by Dr. McArthur, S.M., Wellington, decides that the weekly half-holiday under the Act is not overridden by an award of the Court of Arbitration:—

The informant is the Inspector of Factories, and the defendant is the proprietor of dining-rooms, being the occupier of a shop under the meaning of "The Shops and Offices Act, 1904." The informant alleges that during the week ending the 30th day of June, 1906, the defendant did unlawfully employ on or about the business of his said dining-rooms, being a shop within the