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SUMMARY OF RECENT LAW.

BUILDING CONTRACT.

Architect's certificate for payment of money—Final certificate may be certificate of satisfaction or completion—Certificate may be set aside for fraud but not for innocent misrepresentation or mistake. If, on completion of the work called for by a building contract, no formal certificate of completion or satisfaction is issued by the architect, but he does issue a certificate authorizing the payment to the contractor of the moneys held during the maintenance period prescribed by the contract, that certificate must be treated as evidencing the satisfaction of the architect with the work done by the contractor. (*Harman* v. *Scott* (1874) 2 N.Z.C.A. 407; *Kirsch* v. *H, P. Brady Pty. Ltd.* (1937) 58 C.L.R. 36, followed.) Where, then, the contract has provided that the work is to be done to the satisfaction of the architect, such certificate for payment of the retention moneys is a bar to any subsequent complaint as to the quality of the work, and the fact that the contract contains a provision for the reference of disputes to arbitration does not destroy the finality of the certificate. (*John and Son* v. *Webster and Tonks* [1916] N.Z.L.R. 1020; [1916] G.L.R. 631; *Windsor Rural District Council* v. *Otterway and Try Ltd.* [1954] 1 W.L.R. 1494; [1954] 3 All E.R. 721, distinguished.) The certificate of the architect is of an arbitral nature. It may be impeached for fraud or for misconduct on the part of the architect, but its validity is not affected by mistake on the part of the architect, or by innocent misrepresentation on the part of the contractor or of his employees. Before a company can be made liable in fraud on a representation made by one agent of the company based on information supplied by another agent, guilty knowledge on the part of one or other of such agents must be established. *Mayor, Councillors and Burgesses of the Borough of Stratford* v. *J. H. Ashman (N.P.) Ltd.* (S.C. New Plymouth. 1959. May 26. Turner J. C.A. Wellington. 1960. February 29. Gresson P. North J. Cleary J.)

BY-LAW.

Harbour Board—By-law providing that driver of hired crane deemed to be the employer of the hirer for the whole time of the hiring—By-law unreasonable—By-laws Act 1910, s. 12. By-laws of a Harbour Board relating to the hiring of cranes with drivers and providing for the driver to become the servant of the hirer during the whole time of the hiring and for all loss or damage to any person or property arising from the working of the crane to be the responsibility of the hirer are unreasonable and should be quashed. (*New Zealand Shipping Co. Ltd.* v. *Wellington Harbour Board* (1914) 33 N.Z.L.R. 1403, followed.) Notwithstanding the fact that such By-laws are so quashed they may still be incorporated by reference in a contract between the Harbour Board and the hirer and when so incorporated are valid terms of such contract. (*London Association of Shipowners and Brokers* v. *London and India Docks Joint Committee* [1892] 3 Ch. 242, applied.) *Lindsay* v. *Union Steam Ship Co. of New Zealand and Another.* (S.C. Christchurch. 1959. September 9, 11, 12, 15; December 16. F. B. Adams J.)

COMPANY LAW.

Winding up by the Court—Pari Passu distribution of assets among creditors—Companies Act 1955, ss. 293, 307, Bankruptcy Act 1908, s. 120 (e). Qualification or waiver by creditor of right to share pari passu in distribution of assets. Section 293 of the Companies Act 1955, which directs that the assets of a company shall, on its winding up, be applied pari passu in satisfaction of its liabilities, applies only in a voluntary winding up. In a winding up by the Court the provision for pari passu payment of liabilities contained in s. 120 (e) of the Bankruptcy Act 1908 is incorporated in the Companies Act 1955 by s. 307 of the latter Act. (*In re Mutual Traders Ltd.* [1943] N.Z.L.R. 254; [1943] G.L.R. 134, applied.) The statutory right of a creditor who is entitled to prove or who has proved in a winding up may be qualified or renounced as the creditor thinks fit and to the extent to which he may have chosen to qualify or waive his right to pari passu payment the liquidator's duty to him will be affected. Such qualification or waiver may be effected before the right to share in a pari passu distribution has arisen. *In re Walker Construction Co. Ltd.* (S.C. Christchurch. 1958. June 23, 24; July 4, 7, 8. 1959. December 10. F. B. Adams J.)

CONTRACT.

*Invalid By-law incorporated by reference as term of contract—Validity as term of contract not affected by invalidity as by-law—**See* BY-LAW (*supra*).

CRIMINAL LAW.

*Mens rea—Relevance of ignorance of law to question whether mens rea established—**See* PUBLIC REVENUE (*infra*).

LAND DRAINAGE.

Land Subdivision in Counties—Christchurch Drainage Board not a "controlling authority"—Minister's Powers, when conditionally approving Scheme Plan, to lay down Requirements as to Drainage and Sewage—Land Subdivision in Counties Act 1946, s. 9 (3)—Christchurch District Drainage Act 1951 (L.), ss. 36, 54. There is nothing in the Land Subdivision in Counties Act 1946 which derogates from the powers of the Christchurch Drainage Board under the Christchurch District Drainage Act 1951 (Local). The term a "controlling authority" in the proviso to s. 9 (3) of the Land Subdivision in Counties Act 1946 (as inserted by s. 9 (1) of the Land Subdivision in Counties Act 1953), does not include the Christchurch Drainage Board. *Semble*, The Minister, in invoking the power under s. 3 (4) to approve a scheme plan conditionally, may lay down detailed requirements in respect of drainage and sewage. If, in invoking those powers, the Minister should contravene or deviate from the current policy and requirements of the Board, a landowner, confronted with conflicting directors, would still have his right of appeal to the Town and Country Planning Appeal Board so far as he might be affected by the Minister's decision; and that Board could deal with his case with due regard to the differing requisition of the Drainage Board. *Weston Investments Ltd.* v. *Christchurch Drainage Board.* (S.C. Christchurch. 1959. October 20. Haslam J.)

LICENSING.

Offences—Found on licensed premises after closing hours—Lodger—No payment or contract to pay for lodging—Not conclusive against status as a lodger. A person may be a lodger in licensed premises within the meaning of that term as used in the Licensing Act 1908 even though he has neither paid nor contracted to pay for his lodging. *Pearson* v. *Urquhart.* (S.C. Christchurch. 1959. November 18. Shorland J.)

PRACTICE.

Stay of Proceedings—Plaintiff in action under Deaths by Accidents Compensation Act refusing to undergo medical examination—State of health relevant to expectation of working life and consequently to assessment of damages—Proceedings stayed until

plaintiff submits himself to medical examination. Where the plaintiff in an action under the Deaths by Accidents Compensation Act suffers from a disability which may affect the length of his expectation of working life and that is a factor relevant to the assessment of damages, no order can be made for his medical examination under s. 100 of the Judicature Act 1908 since he is not a person injured, or alleged to have been injured, by the accident which is the foundation of the action. The Court has, however, inherent jurisdiction to stay the proceedings until the plaintiff has submitted himself to medical examination since, to allow the plaintiff to proceed with his action without placing before the Court relevant evidence bearing upon his expectation of working life would be an abuse of the processes of the Court, since it might result in an award of a greater sum for damages than that to which the plaintiff is justly entitled. *Bird* v. *Hammond and Attorney-General.* (S.C. Napier. 1960. February 20. Barrowclough C.J.)

PUBLIC HEALTH.

Offensive Trade—"Flock manufacturing or teasing of textile materials for any purpose"—Flock teasing carried on as part of production of carpet underfelt—Such teasing an offensive trade although not carried on as a separate manufacturing process—Health Act 1956, s. 54 (3). Section 54 (3) of the Health Act 1956 makes it an offence to carry on an offensive trade otherwise than on duly registered premises. To support a conviction under that section it is not necessary to show that the offensive trade alleged is in itself a separate trade or manufacture carried on to produce goods for sale. It is sufficient if the products are used in a further manufacturing process carried on by the same person. (*Doyle* v. *Hall* (1912) 15 G.L.R. 221, distinguished.) *Pratt* v. *Tattersfield Ltd.* (S.C. Christchurch. 1960. February 16. F. B. Adams J.)

PUBLIC REVENUE.

Income Tax—Compensation for land taken fixed by agreement at "amount equal to £28,000 plus interest from the date of possession until the actual date of payment of compensation"—Amount paid in excess of £28,000 taxable as interest—Trustee's income—Sum received by trustee who was in doubt whether it was income or capital in his hands—Later determined to be income—Life tenant entitled to receipt in possession at date of receipt by trustee notwithstanding such doubt—Land and Income Tax Act 1923, ss. 79 (1) (g), 102 (a). Certain land held by the first appellant as trustee was taken by the Crown under the Serviceman's Settlement and Land Sales Act 1953. After certain negotiations had taken place the amount of compensation to be paid by the Crown was settled by agreement and was stated in a letter from the Commissioner of Crown Lands to the appellants' legal adviser to be "a sum equal to £28,000 plus interest from the date of possession until actual date of payment of compensation". The second appellant, R., was life tenant of such lands. The respondent treated the sum in excess of £28,000 paid to the first appellant by the Crown as interest and assessed it to the first appellant as trustee's income under s. 102 (a) of the Land and Income Tax Act 1923. He also included that same sum in calculating R.'s. income, crediting against the income tax attracted by R.'s. assessment the tax on the same sum already assessed to the first appellant. *Held,* (1) That the letter from the Commissioner of Crown Lands above referred to was not the complete contract between the parties but was either one part only of such contract or simply evidential of a contract previously entered into. Certain earlier communications between the parties could therefore be looked at to ascertain the terms of the actual contract between such parties. (2) That the total sum paid by the Crown to the first appellant was not a capital sum in which the element of interest had been introduced in modum aestimationis but the sum so paid in excess of £28,000 was a payment of interest as such and was therefore assessable income. (3) That although at the time of receipt of the money the first appellant as trustee might have been in doubt whether the sum received in excess of £28,000 was capital or income in his hands and such doubt was not resolved until later, R. as life tenant was entitled in possession to the receipt of such sum immediately it was received by the first appellant and the assessments were properly made under s. 102 (a) of the Land and Income Tax Act 1923. *Public Trustee and Another* v. *Commissioner of Inland Revenue.* (S.C. Wellington. 1958. October 13, 16. 1959. December 14. Hutchison J.)

Income Tax—Offences—False Return of income—Wilfully made only if completed with knowledge of its inaccuracy as a fact affecting the taxpayer's liability—Mens rea—Land and Income Tax Act 1954, s. 228 (1) (b). For the purposes of s. 228 (1) (b) of the Land and Income Tax Act 1924, a false return of income is wilfully made if it is completed with knowledge of its inaccuracy as a fact affecting the tax-payer's liability to taxation. There must be an element of dishonesty on the part of the defendant as opposed to a merely negligent completion of an erroneous return. While ignorance of the law does not excuse an offence it is an element which cannot be overlooked in determining whether certain types of mens rea have been established. *Greenfield* v. *Commissioner of Inland Revenue* (1959) 7 A.I.T.R. 454, and *Jackson* v. *Butterworth* [1945] 3 A.I.T.R. 294, applied. *Commissioner of Taxes* v. *King* [1950] N.Z.L.R. 202; [1950] G.L.R. 28, dissented from. *Donnelly* v. *The Commissioner of Inland Revenue.* (S.C. Wanganui. 1960. February 23. Haslam J.)

TRANSPORT.

Warrant of Fitness—No Warrant of Fitness handed to Purchaser at Time of Delivery—Contract of Sale unenforceable—Traffic Regulations 1956, Reg. 53 (1). If the vendor of a motor-vehicle fails to deliver to the purchaser a current warrant of fitness, as required by Reg. 58 (1) of the Transport Regulations 1956, the contract of sale becomes illegal in connection with its performance and is unenforceable by the party. The purchaser is accordingly entitled to recover the deposit which he has paid and to return the motor-vehicle to the vendor. (*Bowmakers Ltd.* v. *Barnet Instruments Ltd.* [1945] K.B. 65, followed. *Anderson Ltd.* v. *Daniel* [1924] 1 K.B. 138, applied. *Buchan* v. *Ngatai* (1959) 9 M.C.D. 369, disagreed with.) *Mankin* v. *Fairbairn.* (1959. December 4. Coates S.M. Otahuhu.)

WILL.

Construction—Direction to divide and pay Trust Fund at specified Time "Each Child to receive his or her share upon attaining the age of twenty-five years"—Postponement of enjoyment but not of Vesting—Gift to "issue" of Daughters—All Lineal Descendants of Daughters included. A testator, after giving the income of a trust fund to such of his three daughters as should for the time being be living, directed his trustee "upon the death of all my aforesaid daughters to divide and pay the Trust Fund together with any accumulated income in equal shares among and to all the issue of my aforesaid daughters then living, each child to receive his or her share upon attaining the age of twenty-five years". There followed a power of maintenance and advancement out of income and capital of any such issue during minority. *Held,* 1. That the shares of the issue of the testator's daughters vested in interest at the death of the last survivor of the testator's three daughters and the direction as to payment on attaining the age of twenty-five years was no more than an attempt to postpone enjoyment. 2. That the "issue" of the daughters included all their lineal descendants and was not limited to their children. *In re Marsh (deceased), Public Trustee* v. *Simpson and Others.* (S.C. Auckland. 1959. October 1; November 20. Hardie Boys J.)

WORKERS' COMPENSATION.

Accident arising out of and in course of employment—Worker using motor car provided by employer and injured while travelling to social event attended in interests of employer—Not in course of employment but deemed so to be—Workers' Compensation Act 1956, s. 5. The plaintiff was a fat lamb drafter employed by the defendant company at an annual salary. He was supplied by his employer with a motor car, the running expenses of which, while it was being used on the employer's business, were met by the employer. Part of the plaintiff's duties was to maintain contact with farmers generally and to promote the interests of his employer. To this end he belonged to certain clubs and attended various social functions and other public activities in his district. On September 21, 1957, he was a member of a committee conducting a barbecue at Bannockburn. On the way from his home to Bannockburn he was to have called at Cromwell for a purpose connected with the barbecue but while travelling between his home and Cromwell in his employer's motor car he was involved in an accident and suffered injuries. *Held,* 1. That, since the plaintiff was under no duty to the defendant company to travel to Bannockburn by any particular means or by any particular route, the accident did not arise out of and in the course of his employment. 2. Nevertheless, since the plaintiff was at the time of the accident travelling in the motor car provided by the defendant company and the running expenses for the trip would have been met by the defendant company, the accident was deemed, pursuant to s. 5 of the Workers' Compensation Act 1956, to have arisen out of and in the course of the plaintiff's employment, and consequently he was entitled to compensation. *Scott* v. *Sims Cooper and Co. N.Z. Ltd.* (Comp. Ct. Dunedin. 1960. February 11. Dalglish J.)

IN YOUR ARMCHAIR—AND MINE.

By SCRIBLEX.

Note on Murder.—"Murder has a magic of its own, its peculiar alchemy. Touched by that crimson wand, things base and sordid, things ugly and of ill report, are transformed into matters wondrous, weird, and tragical. Dull streets become fraught with mystery, commonplace dwellings assume a sinister aspect, everyone concerned, howsoever plain and ordinary, is invested with a new value and importance as the red light falls upon each. The moveless figure in the dock, the passing cloud of witnesses, even the poor and pitful exhibits, all are endowed with a different character and hold for a space the popular attention, here they revert once again to their customary and homely selves. As an auditor of many murder trials, I have often experienced this hallucination, and writing about them afterwards have striven to convey to the reader something of the same illusion. But I doubt whether the spell holds good in print. It lacks the atmosphere of the Courtroom; the grave dignity of the presiding Judge, the duel of contending counsel, the hush of the breathless benches; the suppressed excitement, the increasing tension, as slowly and laboriously the dreadful tale is unfolded; and above all, that indescribable thrill with which at the end of the day we await the return of the jury, as if our very fate hung upon the coming verdict. Persons of high and virtuous views advise me that such sensations are morbid, unhealthy, and to be eschewed by all well-regulated minds. Yet I have noted that the serious ones of this earth revel in the rawest melodrama provided by their favourite films. But there, of course, the interest is purely—or impurely—fictitious, and therefore legitimate; what they find fault with is that the drama presented by a great trial is *real*."—William Roughhead in *Knave's Looking Glass*.

Meetings and Conferences.—The hospitality accorded by British practitioners to American lawyers who visited London during the annual meeting of the American Bar Association held in England in 1957 is to be reciprocated in August and September when American lawyers are to be hosts to some seven hundred-and-fifty English barristers and solicitors and their wives. The annual meeting for this year of the American Bar Association is to be held in Washington, and it is to be followed by a British Commonwealth Conference at Ottawa. It is understood that lawyers in various cities in the United States have offered home facilities to the English visitors, not only during the meeting in Washington, but also during the interval between the conclusion of the meeting on September 2 and September 14, when most of the visiting lawyers are proceeding to the Ottawa Conference. It is also understood that several New Zealand practitioners are visiting the Ottawa Conference; but, unless they are actually the guests of American lawyers attending the meeting, the offer of hospitality in Washington is not extended to casual visitors from other parts of the British Commonwealth. No doubt this is disappointing to those practitioners who would have liked to attend both, but it is not difficult to appreciate how vast such meetings or conferences may become. It is our recollection that the attendance in England in 1957 by Americans alone was in the region of 3,500.

Counsel Comforted.—In *Forty Years at the Bar*, Edward Abinger mentions the defence of Charles Peace, the notorious murderer, by Frank Lockwood, one of the most outstanding criminal advocates of his day. After Peace's execution, his widow, daughter and aunts, all in deep mourning, called at Lockwood's chambers, and in dismay he said to them: "Ladies, I assure you that I did my best to . . .". "I am afraid, sir", said the widow, "you mistake the object of our visit. Please accept our heartiest thanks for the very satisfactory result of the trial. We are greatly relieved and comforted". Peace himself, in fact, sent a message of gratitude to Lockwood, together with a ring which he had worn for many years. Lockwood was called to the Bar in 1872 and joined the Midland Circuit. He later became Solicitor-General in the Lord Rosebery Government, and, at the time of his death, Lord Rosebery paid tribute to him in the following words: "So powerful was his personality that his entrance into a room seemed to change the whole complexion of the company, and I often fancied that he could dispel a London fog by his presence".

How to Win Cases.—"I have a theory which has proved out for me. Juries will not convict on a molestation or a sex charge if the veracity of the woman complainant can be impeached. I try to find out from her neighbours if she has a reputation for lying or if she is known for sexual carelessness. You will never lose a case if you can produce a witness who, in answer to your questions, 'What is Miss So-and-so's reputation for truthfulness where she lives Is it good or bad' replies, 'It's terrible'."—From "The Jerry Giesler Story" (*Saturday Evening Post*, 2/1/1960).

From My Note Book.

"The arguments on behalf of the applicant have been too extravagant to do more than provoke a smile. I feel a difficulty in dealing with them in a serious vein. While copious in amusement they have carried with them no conviction" per Buckley L.J. in *Craske* v. *Wigan* (1909) 2 K.B. 635 at p. 639.

"Although attempts by paraphrase and embellishment to explain to juries what is meant by satisfaction beyond reasonable doubt are not always helpful. And explanation is not always necessary. Wigmore's observations on this point are filled with good sense (*Wigmore*, s. 2497). I would add, although it does not arise from any omission by the learned Judge in this case, that, in my view, it is not desirable that the time-honoured expressed 'satisfied beyond reasonable doubt' should be omitted and some substitute adopted. It is said that it was 'invented by the common-law Judges for the very reason that it was capable of being understood and applied by men in the jury box' (quoted in *Wigmore*, s. 2497, 3rd ed. Vol. IX p. 323). The expression 'proof beyond a doubt' conveys a meaning without lawyers' elaborations. Othello's meaning was clear enough:

". . . . so prove it,
That the probation bear no hinge nor loop
To hang a doubt on"—

per Windeyer J. in *Thomas* v. *The Queen* (1960) 33 A.L.J.R. 413,422.

TOWN AND COUNTRY PLANNING APPEALS.

Wagener Ltd. *v.* Mount Albert Borough.

Town and Country Planning Appeal Board. Auckland. 1959. October 20.

Zoning—Area zoned "Industrial B"—Ordinance Limiting Proposed Site for Premises of Building Contractors and Joinery Manufacturers to Conditional Uses for Light Manufacturing Undertakings—Request for Zoning as "Industrial B" refused—Permit given to Appellants to Establish their Industry as Conditional Use, subject to Conditions—Town and Country Planning Act 1953, s. 26.

Appeal by the owner of a property containing 4 ac. 38 pp., being Lots 14 and 15 of Deposited Plan No. 7699 being part Allotment 169 Section 10 Suburbs of Auckland. This property was known as "The Keyes" block. The company carried on the business of building contractors and joinery manufacturers. Its business was at present carried on on premises premises situate at No. 30 Hewson Street, Ellerslie, where it had been established for approximately twelve years. This property at 30 Hewson Street had been taken by the Ministry of Works for roading purposes and the appellant company was given notice to quit their premises by October 31, although that time had now been extended into January of 1960.

It, therefore, became necessary for the appellant company to seek other premises on which to re-establish its business and after examining a large number of sites in and around Auckland it eventually purchased the property under consideration in this appeal. The property formed part of an area containing approximately 25½ ac. which was zoned under the proposed district scheme for the Borough of Mount Albert as "industrial B1". Under the relative Code of Ordinances there were no predominant uses in "industrial B1" zones. They were limited to conditional uses for what might be described as light manufacturing undertakings. The appellant company applied to the Council requesting that the zoning of this property be changed to "industrial B" or, alternatively, that it be given permission to erect premises and establish its industry on the property as a conditional use in an "industrial B1" zone. Permission was refused and this appeal followed.

The judgment of the Board was delivered by

REID S.M. (Chairman). 1. It is common ground that the block of which the property under consideration forms part is not topographically nor economically suitable for residential development. It is lower than the adjoining land, it has a rough, uneven surface broken by outcrops of rock and it would not be a sound economic proposition to develop it for residential occupation.

2. The Borough Council envisages the development of the whole block as one unit for light industrial use and its view is that the use of part of this block for the type of industry carried on by the company would detract from the amenities of the neighbourhood.

3. As a general proposition, this submission is sound but in this case the company's property is bounded on three sides by other parts of the main block and by the playing fields of the Mount Albert Grammar School. It fronts on to a small residential street, Lyon Avenue, and the residences abutting thereon. Lyon Avenue is cul-de-sac with a nineteen-foot carriageway and it forms at present the only legal access to the company's property. At the hearing evidence was given that occupants of the residences fronting on to Lyon Avenue had been canvassed in respect of the appellant company's proposals and of the sixteen owners or occupiers thirteen were interviewed. Of these thirteen, eight objected to the establishment of the appellant's industry on this site; five had no objection. It is quite clear that the development and occupation of this waste land is highly desirable., In its present state as waste land it must detract from the amenities of the neighbourhood and it appears desirable to the Board that its development for appropriate industrial uses should be encouraged so far as possible. It considers that though there may be some slight detraction from the amenities of some of the residential occupiers in Lyon Avenue, that detraction can be largely minimized by appropriate planning of the siting of buildings and by planting appropriate screens of trees on the perimeter of the site. The Board allows the appeal and directs that a permit is to be issued to the company to establish its industry as a conditional use, but subject to the following specific conditions:

1. That suitable trees be planted around the perimeter of the property to the satisfaction of the Council contemporaneously with the erection of the building to be built by the appellant on the said property.

2. That where practicable the whole area be laid out in lawns and shrubs and that such layout be completed, again to the satisfaction of the Council, within three years from the date of the first occupation of any part of the said building.

3. That the trees, lawns and shrubs so planted and laid out as aforesaid and the said site shall be kept tidy and maintained at all times to the satisfaction of the Council, and that no outside storage except as hereinafter provided shall be permitted, provided however that nothing herein expressed or implied shall be deemed to prevent or restrict the appellant from off-loading goods and leaving the same in a position outside the said building for such time only as shall be reasonably necessary until the said goods can be removed into the proper place reserved for the storage of goods.

4. That no industry emitting smell, fumes, noise or smoke shall at any time be carried on within or about any of the buildings now or hereafter to be erected on the said land.

5. That all buildings whether now or at any time hereafter to be erected on the said land shall at all times be sited, designed and maintained to the satisfaction of the Council and no part of any building shall be closer than sixty feet to the northern boundary of the said land.

6. That suitable arrangements for fire-fighting shall be provided and maintained in compliance with the requirements of the law and to the satisfaction of the Council and that such arrangements shall include the extension of a four inch high pressure watermain on the site and the provision of an adequate static water supply.

7. That if and when other vehicular access is provided by the Council access to the property by industrial vehicles shall be by such route only. No industrial vehicles shall enter or leave the property at times other than between 7 a.m. and 7 p.m. on Mondays to Fridays both inclusive and 7 a.m. to 2 p.m. on Saturdays except with the consent of the Council given by an authorized officer.

8. A parking space or parking spaces as required by the Council shall be provided for the accommodation of all vehicles incidental to the operations to be carried on in the buildings to be erected, such parking space or parking spaces to be sited, formed and maintained at all times to the satisfaction of the Council.

9 On the assumption that the business of the appellant is to be associated with the wood-working and joinery business and that t mber stacks are required for such purpose such stacks shall be sited and maintained in such position and of such maximum height as shall be directed by the Council or its authorized officers and any necessary action taken to screen them from houses in the neighbourhood.

10. That the said factory shall not be permitted to operate except between the hours of 7 a.m. and 8 p.m. on Mondays to Fridays (both days inclusive) and between the hours of 7 a.m. and 2 p.m. on Saturdays provided however that with the consent of the Council or its authorized officers first had and obtained on good and sufficient cause being shown the said factory may be operated on any day of the week, including Sundays, at such times other than those hereinbefore mentioned as may be specified either orally or in writing by the Town Clerk or the Borough Engineer or such other person as may be authorized by the Council from time to time to give such consent on its behalf either orally or in writing.

11. No change of use of the said land or any part thereof from that at present proposed by the appellant—namely, the erection on the said land of a factory and ancillary buildings for the wood-working and joinery business shall be permitted without the priod consent of the Council provided however that nothing in this clause shall be deemed to derogate either from the right conferred upon the appellant company the Council and any other person by the provisions of s. 38A of the Town and Country Planning Act 1953 or from the Council's district scheme under the said Act.

12. Buildings on the northern boundary are to be constructed in permanent materials (either Type 1 or Type 2 as defined in the Council's Building by-laws).

13. The northern frontage to be reserved for administration offices and parking space and no other type of building is to be erected thereon except with the prior consent of the Council.

Appeal allowed accordingly.