5. One member of the Tribunal would have allowed the appeal on the ground that the claimant was "justified in leaving for he had no other redress". I agree with the majority of the Local Tribunal.

6. The claimant entered the employment of the firm in June, 1951, and he must have known then that the firm did not recognise his trade union. There was no justification for leaving when he did, simply because the firm with which he was employed did not follow the practice laid down by the rules of his trade union. If the claimant chose to maintain the rule put forward in this case that a proper craftsman should have been engaged to complete the work which he had had to leave unfinished, he was entitled to do so and leave his employment when he did, but his action does not afford him just cause for leaving, so as to enable him to escape disqualification for unemployment benefit under Section 13 of the Act.

7. What the employers chose to do in their own establishment was a matter for them to decide, and so long as they were paying the claimant his appropriate rate of wages and observing the terms and conditions to which he had expressly or impliedly agreed when he entered their employment, the fact that they chose to call upon someone else to complete his work whilst he was absent did not furnish him with just cause for leaving when he did.

8. I must dismiss the appeal of the claimant's Association.

18.6.52 **UNEMPLOYMENT BENEFIT** R(U) 19/52

A married woman left her employment to join her husband, a soldier, who had been posted to a new station where he expected to remain for some time and where he had found accommodation.

Held that on the facts of the particular case just cause for leaving voluntarily had been established.

1. My decision is that the claimant is not subject to disqualification for unemployment benefit for the period in question—from and including the 5th February, 1952.

2. The claimant, a young married woman, left her employment at B. in the north of England on the 1st February, 1952, to join her husband at S. in Scotland. She made a claim there for unemployment benefit on the 5th February, but the local Insurance Officer, on the ground—as stated—that the claimant had left her employment voluntarily without just cause imposed disqualification for benefit as from the 5th February to the 14th March. On appeal that decision was affirmed by the Local Tribunal.

3. In connection with the present appeal somewhat fuller information as to the circumstances is available than the members of the Local Tribunal had before them, and on the evidence before me I am satisfied that the claimant acted reasonably in the actual circumstances in giving up her employment when she did and going to join her husband at S. I think it unnecessary to attempt to state any general principle applicable to cases of the kind, cases

in which a man on National Service in the Navy, Army or Air Force is transferred to a station and, being likely to be there for some time, invites his wife to give up employment elsewhere and join him. In the present case the claimant did not attend the hearing before the Local Tribunal and they appear to have proceeded to a considerable extent on the terms of a Referee's report which seemed to them to indicate that the claimant had left her employment "to follow her husband from one station to another" and perhaps overlooked a statement signed by the claimant and her husband which does not support that view of the circumstances. *On that view* the Tribunal state that "there can never be any certainty as to the duration of postings and it would be unreasonable for a wife to claim unemployment benefit every time her husband is sent on a short course or any similar posting". Claims by married women *in cases of that kind* may, I think, raise difficulties both for the Statutory Authorities and for the claimants themselves. For example, even when the circumstances show that it was not unreasonable for a claimant to join her husband the employment conditions of the district to which he has been transferred might make the claimant's prospects of employment remote, with the result that she might be held to be "not available" for employment. (That was not the position in the present case, as the claimant secured employment on the 4th March.) In other cases, as a matter directly relevant to the question of "just cause", it might be maintained that, although it was quite reasonable and proper that the claimant should join her husband it was equally reasonable to expect her, *if circumstances permitted*, to make inquiry as to employment in the district before she did so and, if she had omitted to make inquiry, to postpone leaving her employment for a short time with that in view. Such problems of course are not confined to claims by the wives of men on service and in many cases they are apt to be complicated by the difficulty of securing accommodation. When it becomes available that may add force to the contention that the claimant had just cause for leaving her employment without delay. The weight of that factor was emphasised in Commissioner's Decision C.W.U. 38/49 (unreported) in the following statement :—

> "When the husband had succeeded in finding accommodation for himself and his wife . . . the claimant was right in regarding the accommodation so found as the marital home where she should join her husband".

4. In that case, as in the present case, the point was taken against the claimant that her husband as a soldier was liable to be transferred from place to place. The evidence, however, showed that "his residence at his present station had in it a sufficient element and prospect of continuity to make it reasonable and right that the claimant should join her husband there", and the decision of the Local Tribunal recalling the disqualification for benefit for six weeks imposed by the local Insurance Officer was affirmed.

5. Even if I had not been in a position to rely on Commissioner's Decision C.W.U. 38/49 as a precedent, I should have held that in the present appeal the circumstances constituted just cause for the claimant leaving her employment when she did. Her husband—as explained in the statement signed by him and by the claimant, to which I have referred—had completed his initial training and had been transferred to S., where it was expected that he would remain "for the best part of two years". He states that

> "I took the advantage of finding accommodation and bringing my wife to live here. Owing to this she was unable to continue her former employment."

6. As I have indicated, the circumstances so stated might have suggested as a point for inquiry whether the claimant's husband was transferred to S. at such short notice that preliminary inquiry as to employment for her at S. was impracticable. But, apart from the fact that the distance between the two towns would make such inquiry difficult, I feel that on the broad facts of the situation the claimant has shown just cause for her decision to join her husband when she did.

7. I allow the claimant's appeal.

9.6.52

UNEMPLOYMENT BENEFIT

R(U) 20/52

A claimant who worked night shifts lost three shifts work over the Christmas holiday. The day shift lost only two shifts work. *Held* that he was not unemployed on the extra day. The night shift workers were on holiday for one shift more than the day workers.

1. My decision is that the claimant is not entitled to unemployment benefit in respect of Thursday the 27th December, 1951.

2. I am informed that this is a test case affecting the claimant and 80 fellow workers who were employed on the night shift during the Christmas week of 1951 at certain steel works in Newport, Mon. Christmas Day and Boxing Day are customary holidays at these steel works. The employers have stated that in recent years it has not been the practice to work the night shift (10 p.m. to 6 a.m.) on Christmas Eve. In the normal course of events the works would have closed at 10 p.m. on Monday, December 24th, and would have re-opened for the morning shift (6 a.m. to 2 p.m.) on Thursday, December 27th. Owing to a shortage of materials the works were actually closed a little longer, that is to say from noon on Saturday, December 22nd, to 2 p.m. on Thursday, December 27th, but this shortage did not cause the claimant to lose any shifts, and so far as he is concerned it may be disregarded.

3. The claimant is a rollerman who is normally employed on five night shifts in the week, from 10 p.m. to 6 a.m., beginning at 10 p.m. on Monday. He did not go to work on Monday night, December 24th, because the works were closed for the holiday from 10 p.m.; he did not go to work either on Tuesday night, December 25th, or on Wednesday night, December 26th, because the holiday was continuing and continued until 6 a.m. on Thursday, December 27th. The claimant worked the night shift 10 p.m. to 6 a.m. on Thursday/Friday, December 27th/28th, and again on Friday/Saturday, December 28th/29th. In the Christmas week of 1951 he thus lost three shifts because the works were closed for the holiday, and he worked two shifts.

4. The claimant made a claim for unemployment benefit in respect of Thursday, December 27th. The local Insurance Officer decided that he was not entitled, on the ground that it was solely by reason of the holiday arrangement that no work was performed from 10 p.m. on Wednesday, December 26th, 1951, to 6 a.m. on Thursday, December 27th, 1951. The decision was upheld by the Local Tribunal. The claimant now appeals to the Commissioner, but after full consideration I have no doubt that the decisions of the local Insurance Officer and the Local Tribunal were correct.

5. The matter has to be considered in the light of two regulations, viz., Regulation 6(1)(*e*) and Regulation 5 of the National Insurance (Unemployment and Sickness Benefit) Regulations, 1948 [S.I. 1948 No. 1277]. Regulation 6(1)(*e*) provides that

> " a day shall not be treated as a day of unemployment if on that day a person does no work, and—
>
> (i) is on holiday; or
>
> (ii) is a person who does not ordinarily work on every day in a week (exclusive of Sunday . . .) but who has, in the week in which the said day occurs, been employed to the full extent normal in his case."

Regulation 5 is the night workers' regulation which (so far as it is material to this appeal) provides in effect that, where the period of a night worker's employment after midnight is longer than the period before midnight, he is to be treated as having been employed on the second day only.

6. The effect of these regulations is that when the claimant works a full normal week, which is not affected by any holiday, he has to be treated as having been employed on every day except Monday. He does not ordinarily work on Monday; it is for him a normal non-working day; and in accordance with Regulation 6(1)(*e*)(ii) cited above, it is not to be treated as a day of unemployment (and therefore no benefit can be paid for it) if the claimant has in that week been employed to the full extent normal in his case.

7. I will now apply these regulations to the Christmas week of 1951, leaving Monday till the end. On Tuesday, December 25th, and Wednesday, 26th, the claimant was clearly on holiday. On Thursday, December 27th, he was also on holiday, because the work's holiday continued until 6 a.m. on Thursday. His period of employment from 10 p.m. onwards on Thursday belongs to Friday, and he was employed on Friday and on Saturday. The claimant's normal working week of five shifts was thus reduced to two shifts by the customary holiday. He was employed in Christmas week, 1951, " to the full extent normal in his case ", after taking into consideration the customary holiday. Therefore, in accordance with Regulation 6(1)(*e*)(ii), since the claimant had been employed to the full extent normal in that week, Monday, which is his normal non-working day, cannot be treated as a day of unemployment. Thursday, December 27th, which was a day when the claimant was on holiday, cannot be treated as a day of unemployment either, because of the provisions of Regulation 6(1)(*e*)(i) cited above.

8. This appeal does not relate to Monday, December 24th, it relates only to Thursday, December 27th, but I have considered Monday, December 24th, because the claimant has based his appeal on the fact that (disregarding the stoppage enforced by shortage of materials) in the Christmas week of 1951 workers on the morning and afternoon shifts would have worked three shifts whereas workers on the night shift could have worked only two shifts and yet were denied unemployment benefit for the third. This inequality, however, appears to me to be inherent in the fact that the holiday covers three nights and two days, that is from 10 p.m. on Monday night to 6 a.m. on Thursday morning. Men who work by night are thus on holiday for one shift longer than those who work by day.

9. The claimant's appeal is dismissed.
