

the time was extended or that some new contract was made by the respondent. He relies upon a conversation he had with his employer, in which he was told that if he came back "fit"—that is, well—he would teach him again. When the appellant came back, however, he was not well, and therefore he had not complied with the condition demanded by his employer. Even, therefore, if the statement of claim can be made a claim for damages on the breach of this new contract, the appellant is not entitled to succeed on it, because he was not "fit"—that is, free from disease—when he returned.

I am therefore of opinion that the appeal should be dismissed on this ground. It is a hard case for the poor fellow, who has lost the premium he paid for teaching, and has not received the requisite teaching to enable him to pass as a dentist. It would, I think, be a proper thing for his employer to make him some allowance.

I allow only £4 4s. costs.

DECEMBER,*1906.

Auckland.—(Factories Act): A tailor was fined £2, with 9s. costs, for employing a female at overtime-work without permit. S.M. made heavy fine on account of respondent giving misleading statement to the Inspector.

(Shops and Offices Act): For failing to close his shop at 9.30 p.m. on a Saturday (as per gazetted requisition from bootmakers fixing the hours of closing), a bootmaker was fined 5s. and costs.

Napier.—(Factories Act): A factory owner was fined 2s. 6d., with 7s. costs, for employing girls without an overtime permit. Nominal penalty, as application for permit was made, but delivered at wrong place. A tailoress was fined 5s., with 19s. costs, for taking work home from where she was employed. This was done without the knowledge of her employers.

JANUARY, 1907.

Gisborne.—(Factories Act): A laundry-keeper was fined 10s., with 9s. costs, for employing a girl on Saturday afternoon. For employing a girl on a prior Saturday afternoon evidence was to the contrary, and case was dismissed.

Hawera.—(Shops and Offices Act): The manager of a meat company was fined 5s., with 7s. costs, for failing to close his shop at 9 p.m. on a Saturday in accordance with gazetted requisition from shopkeepers fixing the closing-hours. For the same offence a jeweller was fined £1, with £1 8s. costs; and a Chinese shopkeeper £1, with 7s. costs. The latter defendant had been warned previously.

Masterton.—(Shops and Offices Act): A firm of auctioneers were fined £1, with costs £1 12s., for employing a shop-assistant on the statutory half-holiday. A sale was held at a private house on the statutory closing-day. On a similar charge against another auctioneer defence was made that the alleged assistant was a partner, but the Stipendiary Magistrate held the agreement was a pretence, and fined defendant £2, with £1 8s. costs. (For full report of these two decisions see page 80.)

Wellington.—(Factories Act): A firm of tailors were fined £1, with 7s. costs, for failing to register their factory.

(Shops and Offices Act): For employing girls after 10 p.m. on a Saturday a draper was fined £5, with costs 7s.

(Servants' Registry Offices Act): A servants' registry-office keeper was fined £2, with costs 7s., for failing to keep proper books. The case was the outcome of his sending a married couple up country to a position which was already filled.

Christchurch.—(Factories Act): For failing to keep an overtime-book a baker was fined 5s., with costs 7s.

(Shops and Offices Act): For failing to close at 1 p.m. for the half-holiday a fruiterer and seedsman and a pork butcher were each fined 5s., with 7s. costs. A stallholder, New Zealand International Exhibition, was fined 5s., with 7s. costs, for employing an assistant more than fifty-two hours per week. On a charge for failing to grant a half-holiday to an assistant he was convicted and discharged. Under the circumstances, the Stipendiary Magistrate inflicted a nominal penalty.

SHOPS AND OFFICES ACT.

Decision by Stipendiary Magistrate, Masterton, re Auction Sales on Statutory Half-holiday—
(1) Assistant held to be a Shop-assistant; (2) Defence of Partnership not upheld.

WALTER NEWTON, INSPECTOR OF FACTORIES, *v.* A FIRM OF AUCTIONEERS, ETC.

The information charged the defendants that, being the occupiers of a shop situate in Masterton, they did, within the space of one month—to wit, on the sixth day of December, 1906—at Masterton, within the Colony of New Zealand, employ a shop-assistant between the hours of 1.30 o'clock and 5 o'clock in the afternoon, such day being the statutory closing-day for the district.

There were four other informations of a similar character against the same defendants.

The cases were heard at Masterton on the 11th January, 1907, and disclosed the fact that an auction sale was held in a private house on the afternoon of the statutory closing-day, and it was admitted that the assistant named was employed at such sale.

The Stipendiary Magistrate, W. P. James, Esq., gave judgment as follows:—

Section 4 of "The Shops and Offices Act, 1904," provides that a shop-assistant shall not be employed in or about the shop or its business at any time after 1 p.m. on the day in which a shop is required to close, as hereinafter provided. Section 5 reads, "In order to prevent any evasion