of the Act of 1904 was extended and made to include all assistants in any hotel. Under "The Licensing Act, 1881," hotels must close at 10 o'clock in the evening, and the majority of night-porters commence their work at that hour. A porter commencing work at 10 p.m. therefore works only two hours of that particular day. Immediately after 12 p.m. a new day begins, and his work from the time of commencement until its cessation occupies part of two separate working-days. At no time is he working at 2 o'clock in the afternoon of any working-day. It seems to me that the section aims at giving all assistants in hotels who in the ordinary course of employment would but for this provision work on the afternoon of every working-day a half-holiday from 2 o'clock in the afternoon of one working-day in each week. But I do not think it applies to persons who, though assistants, are not employed through the day. The half-holiday must start from 2 o'clock in the afternoon; and if a person is not under ordinary circumstances employed during the afternoon of any working-day, how can he be entitled to a half-holiday from that hour Relieving an assistant from 10 p.m. to 12 p.m. on one night of each week does not, in my opinion, comply with a provision which enacts that all assistants must get a half-holiday from 2 o'clock in the afternoon. If the section is penal, it must be construed strictly, and not in any way strained in order to bring the defendant within its wording. I do not think it is clearly applicable to the present case. W. G. RIDDELL, S.M.

MARCH, 1908.

Wellington.—

HOTEL-WAITERS' HALF-HOLIDAY.

A hotelkeeper was charged before the Stipendiary Magistrate on the 9th March, 1908, with having failed to allow a half-holiday to three assistants during the week ending the 25th January, 1908. The facts were admitted.

The head waiter at the hotel stated that the men in question were given their half-holiday, but came back to work after dinner. The week was a very busy one, the house being full up. Witness told the men that if they came back from 6 o'clock until 8 o'clock they would get 5s., but they need not work unless they desired. They said, "All right; we won't see the other men stuck." Two of the trio returned; the other did not. They were waiters.

The information was laid under section 20 of "The Shops and Offices Act, 1904," which was amended by the Act of 1907 to make the Act apply to all assistants instead of bar-assistants. Defendant's solicitor submitted that the question for His Worship was whether, without any direction from the Legislature, the Court should extend its jurisdiction to lay down what were assistants in hotels. The alleged offence was of a penal nature, and until the Legislature gave a proper definition on which to work His Worship would see that he was without actual jurisdiction. If he took the statute in its widest meaning, every one in the hotel would be an assistant. The next question was how far the statute and award were to be read together. Counsel contended that his clients could have gone to another hotel and got assistants, and that their action amounted to practically the same thing. They made a separate and entire agreement with the men to work as casual labourers, which they were entitled to do.

The Inspector, in reply, contended that the fact that the men came back and worked was sufficient to say that they did not get a clear half-holiday. The mere fact of any one being found in a shop or office was sufficient to show that he was employed there; and the fact that the men came back of their own free will did not relieve the employers of their responsibility; and any agreement between employer and worker conflicting with the statute was illegal. The Inspector did not say that the men were shop-assistants within the meaning of the Act, but they were hotel-employees within the meaning of section 20 of the Shops and Offices Act. In the absence of a definition of the word "assistant," the literal meaning should be taken.

His Worship: Do you say that the fact of the men consenting to work does not allow them to work; if the Act provides for a half-holiday, then the men must take it whether they wish it or not?

The Inspector: Yes.

Judgment was reserved.

Reserved judgment was given on the 11th March, 1908, by the Stipendiary Magistrate.

His Worship held that, although neither the Act of 1904 nor that of 1907 gave any definition of an assistant in a hotel, the Court must consider that waiters came within the definition, and were assistants in the hotel. The only other question was whether they could contract themselves outside of the Act. Section 20 of the Act of 1904 as amended by section 3 of the Act of 1907 made it clear that every assistant must get a half-holiday on one working-day in each week, and that he must take that holiday. There was no provision in the Act to give either employer or employee power to enter into a contract outside of this agreement. His Worship was of opinion that the parties could not make a contract which practically amounted to the setting-aside of the section of the statute. That being so, the Court considered an offence had been committed by defendants. Both parties, however, were at fault—the employees because they agreed to return. A conviction must be entered, and defendants ordered to pay Court costs (7s.); in default, twenty-four hours' imprisonment.

On the application of the solicitor for defendants, security for appeal was fixed at £10 10s.

Dannevirke.—

MASTER AND APPRENTICE ACT.

At the Magistrate's Court on the 7th February, 1908, an apprentice was charged, on the information of his employer, with a breach of "The Master and Apprentice Act, 1865."

The employer produced the form of indenture, binding the boy for five years, from the age of nineteen years. Plaintiff deposed that defendant had something over twelve months longer to serve, and that in November last he asked for and obtained a fortnight's leave, and went to Gisborne. When he had been away three weeks plaintiff wrote him in reference to the probable date