

WHAT IS A "SPECIALIST?"

INTERESTING DENTAL CASE.

PORT AUGUSTA, April 13.

An important case, involving many technicalities, and one in which the decision was awaited with great interest by the dental profession, was brought before Messrs. W. J. Hinde, S.M., and R. J. Cavanagh, at the Magistrates' Court today. H. W. A. Barratt, described as a labourer, of 291 Currie street, Adelaide, was charged with having, on February 5 last, advertised in The Port Augusta Despatch, and unlawfully used a title, description, or word (the word "specialist"), in connection with words published in the same advertisement—"artificial teeth, painless extractions, gold crowns, fillings," and so on—not being registered under the provisions of the Dentists Act of 1902 and the amended Act of 1904; and not possessing any qualifications entitling him to advertise, practise, or hold himself out as a specialist in dentistry or any branch of the profession. Mr. T. Hewitson appeared for Messrs. Varley & Evan, solicitors, for the Dental Board, and Mr. W. J. Denny for Barratt.

Mr. Hewitson, opening the case, said it would be proved, first, that defendant published the advertisement, which on his own admission had been authorized by him; secondly, that in explanation of his notice he claimed to be a specialist in all branches of dentistry; and, thirdly, that he was unregistered. The information was laid under section 9 of the Dental Act Amendment Act, 1904. That denied the right to any unregistered person or company, by sign, nameplate, advertisement, handbill, letter, paper, or billhead, to display the name or title, "dentist," "dental surgeon," "surgeon dentist," "mechanical dentist," and "dental practitioner," either in singular or plural, or alone, or in combination with any term or description, implying that he was qualified to practice. The section created really five offences, of which two were contained in the first part of the section, corresponding with the provisions of the English Act, and the original penal provision in the Act of 1902. Substantially, three offences were added in the Amending Act of 1904, and not enacted in the English provisions. It was under one of these added provisions—concerning the use of "the word, title, or description" to which he was not properly entitled, that defendant was charged. The objects of the Act were to (a) register properly qualified dentists, and (b) to protect the public from being imposed upon by spurious qualifications. Particular penal provisions of the statute were to be construed with reference to the mischief the Act was in-

reference to the mischief the Act was intended to remedy. There was no excuse for non-registration. The Act offered an open door to every person possessing qualifications—first, by describing certain qualifications, then, finally, by the opportunity of examination by the board. More significant still was the fact that the penal provisions of the South Australian Act went far beyond the English provisions, and enacted, in the second part of the section, another substantive prohibition to which a different meaning and effect must be given, in comparing the amended Act with that of 1902. The construction was that, even if registered, defendant could use no word, title, or description beyond those actually possessed by him. If unregistered, he could claim no qualification, either actually qualifying him for registration or implying him an equal standard of qualification to that recognised under the Act. Either defendant was actually a specialist or he was not. The onus was upon him to show why, with every provision in the Act to conform to the standard fixed by the diploma or examination, he had failed to do so.

Mr. Denny said he had intended to take objection at the outset that no offence was disclosed in the information, but he had changed his mind in view of an appeal. The prosecution had not proved the case at all. The information had no merits, and obviously would be dismissed. He agreed with everything in Mr. Hewitson's opening address. There was much in the information which had no application to the offence with which his client was charged.

The S.M.—Does Barratt say more than that he is a specialist in the work he does? I feel he simply advertises he is a very clever man, and a better than any other man in Port Augusta. (Laughter.) If he simply says, "I am a specialist in the work I do," that is all right; but if he says "I am a specialist" he is claiming a title to which he is not entitled.

Mr. Hewitson—That is what he does say.

The S.M.—It is very awkward for the Court to decide a case such as this, and I hope that whatever decision is arrived at an appeal will be made. I am prepared to state a case.

In dismissing the information the S.M. said the question the Court had to consider was whether the word "specialist" as used by defendant, referred to himself or his work. If the former, it was an offence against the statute. If the latter there was no offence. The Court had come to the conclusion that defendant in this case referred only to himself and not to his work.

A stay of proceedings was granted.