

consent in writing of two justices." The facts showed that the appellant had shaved customers between 10.30 a.m. and 11.45 a.m. on Sunday, July 5 last, and had also sold one customer a newspaper. The two questions raised on the case were whether the appellant came within the description of a "tradesman or artificer," and whether the proceedings had been properly instituted under the circumstances.

The Court (Wills, J., and Wright, J.) held that the laying of the information was the point at which the proceedings were instituted, and that the written consent of the chief constable not having been obtained before that step was taken, the prosecution failed upon that point, and it became immaterial to decide the first point.

Per Wright, J.—In "East's Pleas of the Crown" (1 East, 186) information and proceeding before a magistrate are laid down as the commencement of a prosecution under the authority of *Rex v. Wallace*, decided by all the Judges. Conviction quashed.

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THE COVENTRY MACHINISTS' COMPANY (LIM.) v. HELSBY.

[KEKEWICH, J.—Chancery Division—
4TH DECEMBER, 1896.

Trade name—"Swift"—*Appropriation of word*—*Defendant passing off his goods as those of plaintiff*—*Interim injunction.*

Motion for an interim injunction to restrain the defendant from passing off his cycles as or for the goods of the plaintiffs, by the use of the term "Swift" or "Walsall Swift."

The plaintiffs were large cycle manufacturers carrying on business in Coventry and in London, and their cycles had become very well known as "Swift" cycles. They claimed, in fact, to have a monopoly of the word "Swift" as applied to bicycles. For some four years the defendant had been selling cycles under the term "Swift," or "Walsall Swift"; but it was not until September, 1896, that the plaintiffs discovered that it was the defendant, trading as the Cash Cycle Company, who was putting these machines on the market. No evidence of any one having been deceived was given. There was evidence on behalf of the defendant of the sale of his "Walsall Swift" cycles. It was also denied on his behalf that the term "Swift" was exclusively applied to the plaintiffs' cycles, and there were affidavits to the effect that some five other manufacturers had applied the same fancy term to their machines, but no names or details were given.

Kekewich, J., said that the case raised the question whether such a simple descriptive word as "Swift," which could not be registered as a trade-mark, could be appropriated by the plaintiffs for their bicycles. The evidence was unsatisfactory as to whether the word was in common use in the trade, as stated by the defendant. If it was, there was an end to the plaintiffs' case. But, in his Lordship's opinion upon the evidence as it stood, the plaintiffs had appropriated the word "Swift," and therefore the use by the defendant of the words complained of was calculated to deceive the unwary purchaser, and the injunction asked for must be granted.