

not think that the use of the word "New" in the title which he did adopt—"My New Valet"—is sufficiently distinctive.

It is not without significance, in considering this aspect of the case, that the word "My" is common to both names. It is not a case where the defendant is merely using the descriptive word; it is a case in which he is also using another word which forms an integral part of the plaintiff's title.

The *British Vacuum Cleaner v. The New Vacuum Cleaner*, [1907] 2 Ch. 312, comes very close to this case, but it is, I think, distinguishable. There could be no monopoly of the words, "Vacuum Cleaner" or "Vacuum Cleaner Company"; and the holding was that the word "New" sufficiently distinguished the defendant company from the plaintiff company, which had chosen as its descriptive word "British." I think the result would have been otherwise if the defendant company had called itself "The New British Vacuum Cleaner Company."

For these reasons I think it proper to award the plaintiff an injunction to restrain the defendant from the use of the name "My New Valet" or any other similar name only colourably different from the plaintiff's name.

The plaintiff company has sustained some damage; I have not satisfactory evidence as to how much, and therefore award fifty dollars, with the liberty to either party to have a reference at its risk as to costs; and I think the defendant should pay the costs of the action, including the costs of the motion for an interim injunction. If there is a reference, costs of the reference will be reserved.

LATCHFORD, J.

NOVEMBER 18TH, 1912.

#### RE GLOY ADHESIVES, LIMITED.

*Company—Liquidator — Appeal and Cross-Appeal from Master  
—Purchase of Worthless Shares—Gross Fraud—Principal  
and Agent—Liability for Agent's Fraud—Election of  
Debtor—Subrogation.*

Appeal on behalf of T. B. Hughes from the report of the Master in Ordinary, declaring Hughes not to be entitled to twelve hundred dollars paid by one Crosby for shares held by Hughes. He claimed to be entitled to rank on the assets of the company to the extent of the twelve hundred dollars. On behalf of the liquidator of the company the report of the Master was sought