

a motion for a further stay. The order, in the language of some of the cases, was an election to proceed with the action and an abandonment of the right to arbitrate. The request for security for costs in the action was an intimation that, security being given, the action might proceed.

The learned Judge had the less regret in giving effect to an objection that was aside from the merits, as he was convinced that the action could be better dealt with by a Judge than by lay arbitrators. There were legal questions which had to be solved.

The motion must be dismissed—costs to the plaintiffs in any event of the cause.

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MIDDLETON, J., IN CHAMBERS.

NOVEMBER 8TH, 1919.

\**REX v. ABRAMS.*

*Intoxicating Liquors—Order in Council Prohibiting Making or Manufacture of Intoxicating Liquor—Magistrate's Conviction for Violation of—Combination of High Wines with Cherries or Sugar—"Manufacture"—Motion to Quash Conviction—Question of Fact for Magistrate—Evidence to Support Conviction.*

Motion to quash the conviction of the defendant, by a magistrate, for unlawfully manufacturing intoxicating liquor, in contravention of sec. 2 of an order of the Governor-General in Council of the 16th March, 1918.

W. D. M. Shorey, for the defendant.

Edward Bayly, K.C., for the Crown.

MIDDLETON, J., in a written judgment, said, that the order in council provided that no person should "make or manufacture intoxicating liquor," save in circumstances which did not exist here.

For the Crown it was urged that on this motion the conviction could not be quashed because the police officer said that, when he found the liquor on the defendant's premises, the defendant said that "it was cherry wine he manufactured for the Jewish festival;" if the magistrate accepted this and rejected all the other evidence, the conviction must stand.

The learned Judge preferred to base his decision upon the broader ground that the argument for the accused was not well-founded.