

"Bicycle" card, and may well have been put out fraudulently; but it was not shewn that the plaintiff company knew of this card, nor of a similar one called the "Senator."

It was also said that Goodall & Co. had, long prior to their employment of the defendant, themselves used the word "Bicycle" in connection with playing cards; but the limited use of the word "Bicycle," as the name of a series, was insufficient to prevent the plaintiff company from acquiring an exclusive trade mark for their bicycle series. "Long user by another, if fraudulent, does not affect the plaintiff's right to a final injunction:" Halsbury's Laws of England, vol. 27, p. 774.

There was no sufficient evidence of any acquiescence in the user by the defendant or Messrs. Goodall & Co., to constitute an abandonment.

Reference to *Ford v. Foster* (1872), L.R. 7 Ch. 611, 625, 628; *National Starch Manufacturing Co. v. Munn's Patent Maizena and Starch Co.*, [1894] A.C. 275.

Judgment for the plaintiff company restraining the defendant from the infringement of the plaintiff company's trade marks, including the use of the word "Bicycle," but not including the use of the pictures of bicycles found on the "Viceroy" card.

The defendant should pay the costs of the action and \$250 damages, subject to the right of either party, at its own risk as to costs, to have a reference as to damages, and subject to the right of the plaintiff company, at its own risks as to costs, to have an inquiry as to profits.

GAGE V. REID—MASTER IN CHAMBERS—APRIL 12.

Security for Costs—Action against Constable for Assault and False Imprisonment—Protection of Public Authorities Act, R.S.O. 1914 ch. 89, sec. 16—Affidavit—Inquiry as to Means of Plaintiff—Defence.—Motion by the defendant (the Chief of Police of Orillia), under sec. 16 of the Public Authorities Protection Act, R.S.O. 1914 ch. 89, for an order for security for costs in an action brought against him in trespass for assault and false imprisonment. The defendant, in the affidavit upon which his application was grounded, sworn on the 4th April, 1916, sought to maintain his claim to an order for security by setting up, as the only allegation of inability to satisfy the costs of the action, if determined against him, that he had made inquiry, and was advised and believed that the plaintiff did not possess the requisite means to defray such costs. In cross-examination upon this affidavit, the defendant admitted that