

buying a brush made by the defendants in the belief that he was getting a brush of the plaintiffs' manufacture.

The evidence raised a suspicion that the defendants expected to gain some advantage by using the word "Rubberset," which had previously been employed exclusively by the plaintiff; but notwithstanding that circumstance, the learned Judge arrived at the conclusion that no reasonable probability of deception was established.

It was unnecessary to consider whether "Rubberset" had come to be so appropriated by user to mean the goods of the plaintiffs.

The action should be dismissed, without prejudice to the right of the plaintiffs to maintain another action if cases of deception should actually occur hereafter.

*Action dismissed with costs.*

RIDDELL, J., IN CHAMBERS.

DECEMBER 6TH, 1918.

\*REX v. HACKAM.

*Alien Enemy—Magistrate's Conviction for Neglecting to Register—Dominion Order in Council of 20th September, 1916—Permanent Place of Residence—No Evidence to Support Conviction—Attempt to Support under Later Orders in Council—Military Service Act, 7 & 8 Geo. V. ch. 19—Quashing Conviction—Costs—Refusal to Protect Magistrate and Prosecutor.*

Motion to quash a conviction of the defendant, by the Police Magistrate for the Town of Bracebridge, "for that he, the said Sam Hackam, did neglect to register as an enemy alien, as required by order in council P.C. No. 2194 of September 20th, 1916."

H. H. Davis, for the defendant, the applicant.

W. R. Smyth, K.C., for the magistrate and the prosecutor, the respondents.

RIDDELL, J., in a written judgment, said that on the 27th August, 1918, R. H. Stewart, of the Dominion Police, laid an information before the Police Magistrate, charging that the defendant, an enemy alien, had neglected to fulfil the requirements of P.C. No. 2194 of the 20th September, 1916. On the same day, the accused appeared before the Police Magistrate and pleaded "not guilty."