

the case a proper one for the High Court. It is a case in which, in the exercise of my discretion, I should give the plaintiffs costs on the High Court scale. Judgment for the plaintiffs for \$300 damages with costs, and no set-off of costs.

DIVISIONAL COURT.

MAY 4TH, 1912.

REX v. PEMBER.

Municipal Corporations—Transient Traders By-law—Conviction for Offence against—Exhibiting Samples and Taking Orders—Evidence of Offence—Offering for Sale.

Appeal by the complainant from the order of MIDDLETON, J. ante 957, quashing a conviction made by the Police Magistrate for the City of Brantford, against the defendant, for unlawfully doing business in Brantford, on the 29th January, 1912, without first having obtained a license, contrary to a transient traders by-law of the city.

The appeal was heard by FALCONBRIDGE, C.J.K.B., BRITTON and RIDDELL, JJ.

A. J. Wilkes, K.C., for the appellant.

J. Jennings, for the defendant.

BRITTON, J.:—It is a matter of complaint against the defendant that he advertised his going to Brantford in a way that indicated a clear intention of going with a stock of goods to be sold in Brantford. I do not think so. The advertisement stated that he would be at the Kerby House, in Brantford, on the day named, with the latest Parisian and American styles of ladies' hair goods shewn in the Dominion. He stated that "all hair and scalp troubles will be diagnosed free of charge," and he had "something to say for the comfort of bald men" about the "Pember ventilated light weight toupees worn and recommended by the medical profession." Nothing was said about selling the goods or offering them for sale in Brantford. In the meagre evidence given before the Police Magistrate no sale was proved.

The witness Mrs. Bush apparently had no personal knowledge of what she was called upon to prove. She had a strong suspicion that opposition to her in her business was coming