

# CONDEMNNS WAY CASE HANDLED

## Justice Riddell Severely Criticizes Conviction by Bracebridge Magistrate

### THINKS INQUIRY NEEDED

Not only did Mr. Justice Riddell, in a judgment delivered at Osgoode Hall yesterday, quash the conviction of Sam Hackam, a Syrian, but gave no protection to the magistrate who sentenced him, and assessed him along with the prosecutor to pay the costs. Hackam was charged with failing to register as an **allen enemy**, as required by an order in Council of September, 1916, convicted, and fined \$250. On default of payment he was imprisoned for two months. Hackam went to jail but the next day paid the fine, and through his solicitor, Mr. H. H. Davis of Toronto, entered an appeal against the conviction on the grounds that the order in Council did not apply to him, as he was not at that time an alien of enemy nationality, residing in Canada, who had no permanent residence in Canada. He also claimed that the prosecution should have been brought within six months of the alleged offense, as there was no provision to the contrary in the order in Council.

#### No Protection For Magistrate.

"The conviction will be quashed with costs," says the judgment, "payable by magistrate and prosecutor and there will be no order of protection. The registrar will send the original affidavit to the Attorney-General, that inquiry may be made into the conduct of the magistrate—and if necessary proceedings taken if the alleged facts are not true. A copy of the affidavit will be sent to the Minister of Militia and the Chief of the Dominion Police that the conduct of the Dominion policeman may be investigated. In every case a copy of this judgment should also be forwarded. The whole proceedings are a travesty of justice and such as should not be tolerated in any civilized community."

There was no evidence that the defendant was not a resident of Canada, says his Lordship. "In an affidavit he swears that he has, and for many years had, a place of residence in Canada to the knowledge of the magistrate. This is not disputed, and the respondents admit that the conviction cannot stand as for an offense under the order P. C. 2,194."

#### Convicted Before His Time.

The order in Council making it an offense for an alien of enemy birth not to register was not published in The Gazette, the judgment went on to state, until August 17. "The publication being August 17, every enemy alien had until September 6 to report, and he was not in default until the end of that day. The defendant could not be convicted on August 27 of an offense of which he could not be gully till the following month."

The contention made by the Crown that the accused did not enlist as a member of Class 1 was also upset by his Lordship on the ground that proof of age was not produced.

The conviction was made by Magistrate W. J. White of Bracebridge, on the information of R. H. Stewart of Bracebridge on August 27, 1918.