

issued and a preliminary investigation held, as the result of which plaintiff with seven other persons was committed for trial. He elected to be tried before the judge of the County Court and was convicted and sentenced to pay a fine of \$100, which was paid. The conviction was afterwards set aside, on a case stated for the opinion of this court, and the return of the fine ordered. Plaintiff thereupon brought an action claiming damages for false imprisonment, in connection with his detention without a warrant, and the trial judge awarded him as part of such damages the sum of \$100 paid as a fine under the judgment in the County Court, and the sum of \$16 additional for legal and other expenses.

*Held*, that while defendant might be responsible in damages for the detention up to the time of the issue of the warrant he was not responsible after that in the absence of evidence of direct interference on his part; that he was not liable in respect to the fine which never reached him and that his appeal, to that extent must be allowed with costs. That the additional amount of \$16 allowed plaintiff for damages was not unreasonable under the circumstances and with respect to that amount the appeal must be dismissed with costs, costs to be set off.

*MacIlreith*, in support of appeal. *O'Connor* and *F. McDonald*, contra.

Full Court.]

[Dec. 11, 1909.]

SAM CHAK v. CAMPBELL.

*Chinese Immigration Act, R.S.C. c. 95—Arrest for attempted evasion of—Absence of warrant—Liability of officer causing arrest—Verdict—Entry of amended—Costs.*

Plaintiff was arrested on the 30th August, 1907, at the instance of defendant, a preventive officer, acting under instructions from the collectors of customs for an attempted evasion of the provisions of the Chinese Immigration Act, R.S.C. c. 95, and was detained for some days in custody without a warrant having been issued and without having been brought before a magistrate for examination. Plaintiff brought an action claiming damages for such arrest and detention on the trial of which the learned judge directed the jury, among other things, that defendant was only liable from the time he preferred a charge against plaintiff, which was on the 6th day of September. The jury came into Court and the foreman announced that they found a verdict for defendant and handed in a memorandum