

Various objections were raised to the regularity of the proceedings in the General Sessions, and it was also objected that the Court had not jurisdiction to impose the penalties which were imposed.

The case was fully argued on these objections, and the members of this Court were of opinion that the conviction and the orders of the Sessions could not stand.

The private prosecutor was content that the conviction and orders should be quashed; and the only question was as to the costs.

The reasonable course to be taken would be that the prosecutor should undertake not to enforce the penalties; and, if he so undertakes, there should be no costs to either party in the Court below or of this motion.

If the prosecutor should be unwilling to give the undertaking, or if the defendants should not be satisfied with the disposition suggested, there should be a direction for the stating of a case, without costs of the motion to either party.

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FIRST DIVISIONAL COURT.

JUNE 11TH, 1920.

SPARKS v. CANADIAN PACIFIC R.W. CO.

CANADIAN PACIFIC R.W. CO. v. SPARKS.

*Railway—Carriage of Goods—Injury and Loss in Transit—Failure to Shew Negligence—Want of Proper Care—Freight and Demurrage Charges—Notice to Consignee—Bill of Lading—Storage Charges—Account—Reference.*

Appeals by Sparks from the judgments of SUTHERLAND, J., 17 O.W.N. 336, in the two actions.

The appeals were heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and FERGUSON, J.J.A.

C. A. Seguin, for the appellant.

W. L. Scott, for the railway company, respondents.

FERGUSON, J.A., reading the judgment of the Court, said, after stating the facts established in the action brought by Sparks, that the findings of the learned trial Judge, which were supported by the evidence, made it unnecessary for the Court to deal with the meaning and effect of the terms of the bill of lading. It was sufficient for the disposition of the appeal that the Court should agree in the findings of the trial Judge. The appeal of Sparks