

3. They have been actuated by a bonâ fide desire to protect their own interests, and that of the wholesale grocery trade in general.

As far as intentions and good faith or the want of it are elements in the offence with which they are charged, the evidence is entirely in their favour.

Have they been guilty of a technical breach of law? This question is answered by the citations, which I have given above, and which cover every branch of the case.

I, therefore, say that the defendants are not, nor is any of them, guilty as charged.

These are minor matters as to which I, sitting as a jury, give the defendants (as I am bound to do) the benefit of the doubt, and as to which I warn the defendants, and those in like case to be careful. e.g., as to alleged efforts to coerce wholesale dealers into joining the guild.

It is of the essence of the innocence of the defendants that the privileges which they seek to enjoy should be extended to all persons and corporations who are strictly wholesalers, whether they choose to join the guild or not.

G. T. Blackstock, K.C., and S. F. Washington, K.C., for the Crown. E. F. B. Johnston, K.C., E. H. Ambrose, and Eric N. Armour, for the defendants.

Divisional Court.]

[March 7.

BARNETT v. GRAND TRUNK R.W. Co.

*Railway—Collision—Negligence—Injury to licensee or trespasser on train run into by car of another railway—Liability for gross negligence—Highway—Findings of jury—Reversal of judgment of trial judge—Judgment for plaintiff instead of new trial.*

An appeal by the plaintiff from the judgment of MEREDITH, C.J.C.P., upon the findings of a jury, in favour of the defendants, in an action for damages for injuries sustained by the plaintiff by reason of a collision between a train of the Pere Marquette Railway Company upon which the plaintiff was riding, and a van or car of the defendants in the railway yard at London, the collision being caused by the negligence of the defendants, as the plaintiff alleged.

The appeal was heard by BOYD, C., MAGEE, and LATCHFORD, JJ.

The judgment of the court was delivered by BOYD, C.:—