

MACMAHON, J.

FEBRUARY 13TH, 1902.

TRIAL.

THOMPSON v. KING.

*Vendor and Purchaser — Commission — Reopening Negotiation—
Agent's Advertising Expenses.*

Action tried at Ottawa, brought to recover a commission after sale of a house in the city of Ottawa by the defendant, through the instrumentality of plaintiff, as he alleges.

R. G. Code, Ottawa, for plaintiff.

W. D. Hogg, K.C., for defendants.

MACMAHON, J.—I do not think that it was through the instrumentality of plaintiff that the negotiations were reopened between the purchaser and defendant. The purchaser says that he had been negotiating with defendant to buy before plaintiff spoke of his being defendant's agent, and when plaintiff told him he was defendant's agent, he (Fielding) refused to discuss the matter further. The plaintiff therefore is not entitled to a commission. The nearest case is *Thompson v. Thomas*, 11 Times L. R. 304, but it is clearly distinguishable. On the authority of *Taplin v. Barrett*, 6 Times L. R. 30, and *Chiswick v. Salisbury*, 3 Times L. R. 258, the plaintiff may be allowed \$45, expenses incurred in advertising, for which there will be judgment for him, with Division Court costs. Defendant may set off the costs of the action

Code & Burritt, Ottawa, solicitors for plaintiff.

O'Connor, Hogg, & Moyer, Ottawa, solicitors for defendant.

FEBRUARY 13TH, 1902.

DIVISIONAL COURT.

GAUL v. TOWNSHIP OF ELLICE.

Malicious Arrest and Prosecution — Constable — Acting Bona Fide Warrant Bad on its Face—Civil Action—Notice—Time—Municipal Corporation — Resolution of Council — Want of Malice Ultra vires—Funds for Prosecution—Liability of Individual Members—Justice of the Peace—Dominion Officials Enforcing Criminal Law—Not Within Respondeat Superior.

Appeal by plaintiffs from judgment of County Court of Perth, in action for damages for malicious prosecution, false arrest, and imprisonment. The defendant corporation, in 1899, granted an application made by one James Hishon, on