

agents, owing to scales taken in exchange not having been satisfactorily accounted for or returned, the company, in correspondence with the plaintiff, made it a condition that all scales taken in exchange for scales sold by the plaintiff should be immediately returned to them, and in the same correspondence a new scale of payment to the plaintiff was fixed. The plaintiff evidently adopted this as a term of his agreement with the company, and lived up to it, and returned all scales taken in exchange by him till the sale to Stone & Fisher about April, 1911, when he retained the scales taken in exchange from them; and though, in reporting to the company the making of this sale, he informed them that he was forwarding the old scales taken in exchange, he failed to do so; and, later on, he sold it and retained the money received therefor. He left the company's employment in or about September, 1911.

Some question or accounts between the plaintiff and the company arose, and interviews took place between the plaintiff and Dent, following which Dent consulted Mr. Honeywell, a solicitor in Ottawa, who had previously had some knowledge of the matter. Though he (Honeywell) says that he had general information as to the effect of the agreements between the plaintiff and the company and the correspondence which took place in relation to the terms of employment, these documents were not submitted to him at the time he was consulted by Dent. He also says that, being of the opinion from what was laid before him that the plaintiff was guilty of a criminal offence, he referred Dent to Mr. Ritchie, the Crown Attorney, whom Dent then consulted. No papers or documents were laid before Mr. Ritchie; but, on Dent's statement that the old scales was the property of the company, and that the plaintiff had sold it and pocketed the money, he advised that he was subject to prosecution. The arrest then followed.

At the close of the plaintiff's case, counsel for the company asked for a nonsuit. I was of opinion that there was sufficient evidence to go to the jury as to the action taken by Dent, but I reserved the question of the liability of the company for the acts of their co-defendant, if the jury should find in favour of the plaintiff. The verdict as returned by the jury (which of their own motion they put in writing) was as follows: "We as jury consider that Mr. Dent did not disclose the facts properly to Mr. Ritchie. A. No. We as jury agree that the plaintiff is entitled to \$1,200."

On this finding, I think that the plaintiff is entitled to judgment as against Dent.

Dealing with the question of the liability of the defendant