

Upon the finding of the learned Judge, that the defendants The Eastern Construction Company, Limited, took the goods in question with a knowledge of all the circumstances, his holding that they also are liable for their value is right, though this is a matter of no great moment now, there being no liability in respect of the pine taken.

The defendants should have their costs of this appeal upon the final taxation of costs, when such set-offs as are proper may be made.

MAGEE, J.A., will also give written reasons later.

HIGH COURT OF JUSTICE.

BRITTON, J.

APRIL 1ST, 1911.

DUNDAS v. WILSON.

Malicious Prosecution—Reasonable and Probable Cause—Honest Belief—Submission of Facts to Counsel—Charge to Jury.

Action for malicious prosecution, tried at Woodstock with a jury.

T. Wells, K.C., and J. C. Hegler, K.C., for the plaintiff.

F. R. Ball, K.C., for the defendant.

BRITTON, J.:—The plaintiff was charged by the defendant with stealing dog muzzles. The plaintiff was arrested and sent for trial to the General Sessions for the county of Oxford, where the grand jury ignored the bill.

At the close of the evidence defendant's counsel moved for dismissal of the action on the ground that plaintiff had not shewn the absence of reasonable and probable cause. I was of opinion that upon the evidence, so far as the evidence is not in conflict, taking everything most strongly against the plaintiff, there was not reasonable and probable cause for the prosecution instituted by the defendant. My decision, however, was reserved and I charged the jury that if they found that the defendant at the time of laying the information honestly believed that the plaintiff on the 14th February, 1910, stole dog muzzles, and if the defendant so believing submitted to counsel all the facts known to the defendant, and simply acted upon the advice