

den did not realise that Truesdell had been out, and he sought to get possession of the boat. An altercation took place, in which it was made quite plain that Truesdell intended to retain possession and refused to allow Holden to have the boat. Holden thereupon consulted his solicitor, and they went before the magistrate, explained the facts to him, and laid an information against Truesdell for stealing the launch.

The jury has found in answer to a question, that Holden did not place the facts before his solicitor Allan, and that Allan and Holden did not fully and honestly place the facts before the magistrate. The only suggestion upon which this finding could be based was the fact that Holden told his solicitor that he was in possession of the boat under the seizure he made in the evening, and he also told his solicitor and the magistrate that Truesdell had given him the keys with the view of placing him in possession.

The jury has also found that when Truesdell went on the boat it was not in fact in Holden's possession, and that Holden had not then made a seizure. There was absolutely no evidence to justify this finding. Rightly or wrongly, Holden had taken possession under his mortgage.

Truesdell was not arrested on the information until late in the evening, as he took the launch away from its moorings before the constable reached the place, and secreted it in another part of the harbour; and thereafter successfully evaded the constable, who was searching for him, until late in the evening. The magistrate did not grant bail; but, by some method not explained, Truesdell secured his freedom very early on the following morning.

When the matter came before the magistrate he took the view—which to me seems extraordinary—that no offence had been committed; and he discharged the accused. Hence the action for malicious prosecution.

The boat was then in the custody of the police authorities; and the magistrate, by another extraordinary ruling, directed it to be given to the one who would first reach it. Truesdell, being far more agile than Holden, and having a bicycle, secured possession. Being thus in possession of the boat under *aegis* of the law, as embodied in the Collingwood police magistrate, Truesdell proceeded to use it, notwithstanding the agreement that it should not be touched, not-