

at the trial in relation to any of the matters above referred to so as to entitle the accused to be discharged notwithstanding the verdict of the jury? A. Yes. The accused was tried upon seven libels, and was convicted upon two, when the grand jury had found a true bill upon one only, which was not known to be either of the two.

The prisoner should be discharged.

MACLAREN, J.A., and ROSE, J., agreed with MAGEE, J.A.

CLUTE, J., also read a judgment. For reasons stated at length, he reached practically the same conclusions as MAGEE, J.A., though his answers to questions 5 and 6 were in different words.

He added that the Crown should not be precluded, if so advised, from preferring a new indictment.

FERGUSON, J.A., agreed with CLUTE, J.

*Prisoner discharged.*

FIRST DIVISIONAL COURT.

MARCH 1ST, 1918.

WHYTE v. HENDERSON.

*Principal and Agent—Commission on Sale of Secret Process—Contract—Liability—Joint Obligation to two Agents—Release by one—Effect of—Judgment—Declarations—Payment of Moiety of Commission to one Agent—Recital in Judgment—Reference Unnecessary—Costs—Appeal.*

Appeal by the defendant from the judgment of MASTEN, J., 12 O.W.N. 346.

The appeal was heard by MACLAREN, MAGEE, and HODGINS, J.J.A., LATCHFORD, J., and FERGUSON, J.A.

E. D. Armour, K.C., for the defendant.

I. F. Hellmuth, K.C., and Neil Sinclair, for the plaintiff, respondent.

The judgment of the Court was read by HODGINS, J.A., who said that the trial Judge, after making certain declarations, referred it to the Master in Ordinary to inquire "and report what