

THE  
ONTARIO WEEKLY REPORTER

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SUPREME COURT OF ONTARIO.

FIRST APPELLATE DIVISION. NOVEMBER 3RD, 1913.

WATERS v. TORONTO.

5 O. W. N. 210.

*Malicious Prosecution — Municipal Corporation—Liability for Acts of Mayor and Board of Control—Arrest of Employee of Power Company—Charge of Disorderly Conduct—Scope of Instructions—Appeal—Dismissal of.*

DENTON, Co.C.J., 24 O. W. R. 746, held, that neither the Mayor nor the Board of Control of a city have any authority to bind the city by their acts in procuring an illegal arrest, and the city is therefore not liable to the person so arrested in damages therefor.

*Kelly v. Barton*, 26 A. R. 608, followed.

SUP. CT. ONT. (1st App. Div.) affirmed above judgment with costs.

Appeal by the plaintiff from a judgment of HIS HONOUR JUDGE DENTON, of the County Court of the county of York, dated 14th June, 1913 (24 O. W. R. 746), which was directed to be entered after the trial of the action before His Honour sitting without a jury on the 29th May, 1913.

The appeal to the Supreme Court of Ontario (First Appellate Division) was heard by HON. SIR WM. MEREDITH, C.J.O., HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE and HON. MR. JUSTICE HODGINS.

H. H. Dewart, K.C., and N. S. Macdonnell, for appellant.  
C. M. Colquhoun, for respondent.

HON. SIR WM. MEREDITH, C.J.O.:—The action is for malicious prosecution and the allegations of the statement of claim are that the respondent on the 30th October, 1912, falsely and maliciously and without any reasonable or prob-