

There will be judgment for the return of the amount paid, with interest from 19th August, 1912, and costs. The amount must be settled by the Registrar or agreed upon, as it is not disclosed in the pleadings or evidence.

HON. MR. JUSTICE MIDDLETON.

APRIL 14TH, 1913.

TRUEDELL v. HOLDEN.

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HOLDEN v. COLLINGWOOD SHIPBUILDING CO.

4 O. W. N. 1138.

Malicious Prosecution—Illegal Seizure — Conversion—Three Actions Arising out of Same Facts — Findings of Jury—Perversity and Inconsistency—Reasonable and Probable Cause Found — Evidence—Reference—Costs.

MIDDLETON, J., dismissed with costs two actions by the same plaintiff against the same defendant for malicious prosecution and illegal seizure of a boat, disregarding in the former the inconsistent and precise findings of the jury upon the facts and gave judgment for plaintiff for damages to be agreed upon as ascertained upon a reference in a third action brought by the defendant in the former actions against a bailee for conversion of the boat in question.

J. Birnie, K.C., for Truesdell.

A. E. H. Creswicke, K.C., for Holden.

R. E. Fair, for the Collingwood Shipbuilding Co.

HON. MR. JUSTICE MIDDLETON:—These three actions were tried before me at Barrie, on the 25th, 26th and 27th days of March; the first being tried with a jury, the other two without a jury. The actions were tried separately, but there are many facts in common.

Truesdell, a young man living in Collingwood, built a gasoline launch called the "Olive." On the 16th August, 1911, he mortgaged it to one Henry Poehlman, to secure \$300. Poehlman, desiring his money, the mortgage being past due, and Truesdell desiring to obtain some further money to enable him to complete the furnishing of the boat, sought out Holden, who resided near Collingwood and who had money at his disposal.