ment, the defendant keeps silence. "Silence is sometimes conduct," says Bramwell, B., in Keen v. Priest, 1 F. & F. 314, at p. 315; and where, from the relations of the parties, a reply might naturally and ordinarily be expected, silence is strong evidence of acquiescence. See Richards v. Gellatly, L.R. 7 C.P. 127, 161; Wiedeman v. Walpole, [1891] 2 Q.B. 534, esp. 539, 541 (C.A.) The "fair way of stating the rule of law is, that in every case you must look at all the circumstances under which the letter is written, and you must determine for yourself whether the circumstances are such that the refusal to reply alone amounts to an admission." See the cases collected in Wigmore, sec. 1073, and notes.

Under the circumstances of this case, I think the natural thing to expect, if the defendant really disputed the plaintiff's claim that he had "secured" a customer, would be an explicit denial by the defendant of that construction of the contract. I am of opinion that what the plaintiff did was what both parties contemplated as a securing of a customer within thirty days—and that the plaintiff is entitled to recover.

There being no cross-appeal as to the amount, the appeal should simply be dismissed with costs.

DIVISIONAL COURT. NOVEMBER 9TH, 1911.

*CONNORS v. REID.

Malicious Prosecution—Reasonable and Probable Cause—Belief of Defendant in Truth of Charge Laid—Question for Jury—New Trial.

Appeal by the defendant from the judgment of the County Court of the County of Ontario in favour of the plaintiff, after a trial with a jury, for the recovery of $175 damages, in an action for malicious prosecution.

The appeal was heard by MEREDITH, C.J.C.P., TEETZEL and RIDDELL, JJ.

H. E. Rose, K.C., for the defendant.

J. M. Ferguson, for the plaintiff.

RIDDELL, J.:—The action is for malicious prosecution, the defendant having charged the plaintiff, who was in his employ,

*To be reported in the Ontario Law Reports.