The only evidence of the age of the so-called minor is his own—he says he "will be 18 years of age on the 27th January, 1910." I have great doubt—more than doubt—whether this testimony is proof of the minority of the age of the witness—and I have heard it ruled more than once by Judges of great ability and experience that a witness cannot be allowed to testify to his own age. But suppose that to be got over, there is no evidence that the accused knew that the young man was under 21, and none that he was apparently under 21. It may be that the young man appeared to the Police Magistrate to be under 21; we have no evidence of that; and in any case we are not determining an appeal from the Police Magistrate. I do not at all hold that the Police Magistrate had the right to determine without evidence and upon his own view that the young man was apparently under 21. There is no necessity of expressing an opinion upon that point. Rex v. Turner, [1910] 1 K. B. 362, may be looked at on the point.

There was nothing but some writing before the County Court Judge, and he could not see the person—for anything that appeared before him he may have looked 30 or 35. And although he might disbelieve, as the Police Magistrate did, the evidence of Farrell, who said, "They are all big enough to go to work, I think they are all 21 years old in appearance," he could not hold that this evidence proved the opposite: Gilbert v. Brown, ante 652, at p. 654 ad fin. The whole effect of disbelieving evidence is to wipe out the evidence.

The conclusion of the County Court Judge being correct, we are not concerned with his reasons: Rex v. Boomer, 15 O. L. R. 321; see p. 322.

The appeal should be dismissed with costs.

DIVISIONAL COURT. JULY 4TH, 1910.

CROWN ART STAINED GLASS CO. v. COOPER.

Costs — Mechanics' Liens — Action to Enforce Lien — Plaintiffs Allowed to Complete Work pendente Lite—Incidence of Costs —Deduction of Defendants' Costs of Action and Appeal from Payment to be Made.

Appeal by the plaintiffs from the judgment of the Local Master at Goderich, in an action to enforce a lien under the Mechanics' and Wage-Earners' Lien Act, finding that the plaintiffs had not proved a lien and were not entitled to a lien.