

taken to the Supreme Court, but was settled. About the same time, a case of *Archibald v. Maclaren*, which had been tried three times, was taken to the Court of Appeal, where, in consequence of an equal division of the judges, the decision of Armour, C.J., directing a non-suit, was upheld, and that view was sustained in the Supreme Court; but, as the case has never been reported in either court, it is thought desirable, in consequence of such difference of opinion and the general importance of the question, to refer to it at length.

In the early history of this journal was adopted the practice of reporting important cases not appearing in the authorized reports, and we propose doing so in the future, when the matter seems of sufficient general interest to warrant it.

This action was against an inspector of police, and the facts are briefly stated in the judgment of Mr. Justice Burton:—

"In discussing the action, Chief Justice Armour said: 'The question is, was there reasonable and probable cause for laying the information? Have you shown upon your part the absence of reasonable and probable cause? Here is Archibald, whose duty it was to receive complaints from citizens against persons breaking the law; he has no object to serve except the public peace; he is informed by this woman that she was in this house for the purpose of prostitution, and that this business was carried on there. I think he would have been justified in acting on that; however, he makes inquiry and hears there have been rows in this house. There is no evidence he did not act honestly. What was he to do? He inquired from those in charge of that particular vicinity, and was informed that there had been rows there. There is no doubt Toronto is full of houses of ill-fame. Many young men take rooms in town and use them for that purpose. The defendant gets this information and acts upon it. It is not necessary that he should be able to prove the case. I think it would be monstrous if this man were subjected to damages in this case for what he did. These people may have been wronged—I don't know—but that does not give them a cause of action.

MR. MURDOCH—The jury should be allowed to pass upon it.

HIS LORDSHIP—My duty is to determine upon the evidence whether absence of reasonable and probable cause is shown, and I must determine upon this evidence it is not shown."

This decision was reversed in the Common Pleas Division, and a new trial—the third—ordered.

In the Court of Appeal the Chief Justice, after commenting upon the fact that the case had been so frequently heard, placed his judgment upon the ground that on the information laid by a *particeps criminis*, and the peculiar circumstances in evidence, the