

Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Yap Hon Chin v. G. L. Jones Parry and another, from the Court of Appeal of the Federated Malay States; delivered the 23rd November 1911.

PRESENT AT THE HEARING :

LORD MACNAGHTEN.

LORD MERSEY.

LORD ROBSON.

[DELIVERED BY LORD MACNAGHTEN.]

This is an action brought for wrongful imprisonment in exercise or supposed exercise of the powers given by an enactment entitled the Banishment Enactment of 1900, which was in force in the Federated Malay States.

In order to support such an action it is provided by the Enactment that—"in every action so brought it shall be expressly alleged that the Defendant acted either maliciously or negligently and without reasonable or probable cause, and if at the trial the Plaintiff shall fail to prove such allegation Judgment shall be given for the Defendant."

Now, the learned counsel for the Appellant has read the substance of the evidence, and their Lordships fail to find in that any evidence whatever that the Defendants acted negligently and without reasonable or probable cause. The evidence is summed up very clearly in the Judgment of Mr. Justice Ebdon. He says—"The evidence brought by the Appellant in support

“ of his claim consists merely of the statement
“ of his mother that he was born in British
“ territory, and of his own description of his
“ arrest, his denial of the existence of any evidence
“ against him, and his profession of ignorance as
“ to the reason for his arrest. Mere innocence
“ has been laid down, as pointed out by the
“ learned Chief Judicial Commissioner, to be not
“ even *primâ facie* proof of want of reasonable
“ and probable cause, the burden of which
“ proof lay on the Appellant in accordance with
“ the terms of the Enactment.”

The Appellant has not satisfied that burden,
and their Lordships will therefore humbly advise
His Majesty that the Appeal ought to be dismissed,
and the Appellant will pay the costs.



In the Privy Council.

YAP HON CHIN

2.

G. L. JONES PARRY AND ANOTHER.

DELIVERED BY LORD MACNAGHTEN.

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