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IN THE HIGH COURT OF JUSTICE

KINGS BENCH DIVISION

ON APPEAL FROM THE BOW COUNTY

COURT OF MIDDLESEX

T A Y L O R

V

K E M S L E Y and others

Copy

NOTICE of APPEAL

HATCHETT JONES BISGOOD & MARSHALL

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15IN THE HIGH COURT OF JUSTICEKING'S BENCH DIVISIONON APPEAL from the BOW COUNTY COURT
OF MIDDLESEX.B E T W E E N THOMAS SMITHIES TAYLOR Plaintiff
Respondent

a n d

WALTER KEMSLEY E.J. Davis 8.C.

Pittam F.T.C. Bristow J.H. Redman

J. Shephard and C.H. Pollard

Defendants

Appellants

TAKE NOTICE that at the expiration of eight days from the service upon you of this notice or soon thereafter as Counsel can be heard this Honourable Court will be moved by Counsel on behalf of the above named Defendants Bristow, ^{Redman} and Shephard as Appellants for an Order that so much of the Judgment and decision of the learned Judge of the above named Bow County Court dated the 4th of December 1912 as adjudges that the Plaintiff should recover against the Defendants Bristow Redman and Shephard above named the sum of £5 as damages for assault and such costs as follow the recovery of the sum of £5 may be set aside or varied and that in lieu thereof judgment may be entered for the said three Defendants or alternatively that a new trial may be granted as between the Plaintiff and the said three Defendants and that the Plaintiff do pay to the said three

Defendants their costs of and occasioned by this Appeal

AND further Take Notice that the grounds of
this Appeal are

1. That there was no evidence of the assault alleged by the Plaintiff or alternatively upon the admitted facts of the case there was no evidence of any sufficient assault to amount to an assault in law.
2. That there was no evidence that either of the said three Defendants assaulted the Plaintiff and there was no evidence that any servant or any agent of any of the said three Defendants in that behalf assaulted the Plaintiff
3. That there was no evidence of the relationship of Master and servant between any of the said three Defendants and the persons who were alleged to have assaulted the Plaintiff and no evidence that the Defendants or any of them gave to any such persons any express or specific authority to assault the Plaintiff or to eject him from the meeting in question or to suppress disturbances at such meeting
4. That upon the admitted facts the Defendants had a right to remove the Plaintiff from the said meeting as quickly as possible without the use of any violence or of greater force than was necessary
5. That if the learned Judge found that greater force was used than was necessary (which is not admitted) there was no evidence upon which he could so hold and such finding (if any) was contrary to all the evidence
6. That upon the admitted facts and the undisputed evidence in the case the Defendants used no more force or compulsion upon the Plaintiff and took no steps

beyond what was necessary and reasonable for the protection of the Plaintiff and in order to conduct him safely out of the meeting.

7. That upon the undisputed evidence in the case the Defendants used no greater force or compulsion upon the Plaintiff and took no steps beyond what was reasonable and necessary for the preservation of public order at the said meeting and the prevention of disorder or riot thereat

8. That the ruling and decision of Mr Justice Avory in the case upon which the learned Judge relied was erroneous in point of law and ought to be reversed or alternatively that such case was distinguishable upon the facts.

9. That upon the finding of fact by the learned Judge that the Plaintiff unjustifiably and with knowledge of the probable consequence interrupted the said meeting

Judgment ought to have been entered for the Defendants

10. That the said Judgment was contrary to the undisputed facts or alternatively that there was no sufficient evidence to support the Judgment

11. That the Judgment was contrary to the weight of the evidence

12. Alternatively that the learned Judge did not deal with the submission of the Defendants at the trial that in fact no greater force was used than was necessary for the protection of the Plaintiff under the circumstances of the case and in order to safeguard his removal

And generally

Dated the 23rd day of December 1912.

Yours &c.

Geo. Brown Son & Vardy.

56 Finsbury Pavement.

Solicitors for the said Defendants.

To the Plaintiff
And to Messrs Hatchett
Jones Marshall & Bisgood,
his Solicitors.