

## DUNCAN v. THE KING

1945  
\*May 28  
\*June 4

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH  
COLUMBIA

*Criminal law—Dismissal by Court of Appeal of accused's appeal from conviction of theft—Dissenting opinion in that Court that there was no evidence to support conviction—Appeal to this Court dismissed.*

APPEAL by the accused from the judgment of the Court of Appeal for British Columbia (1) dismissing (O'Halloran J.A. dissenting) his appeal from his conviction of unlawfully stealing a number of panel boxes and switches.

*D. J. McAlpine* for the appellant.

*L. W. Brockington K.C.* and *G. F. Henderson* for the respondent.

THE COURT.—Assuming that the ground of Mr. Justice O'Halloran's dissenting opinion is that there was no evidence whatever upon which the Magistrate could convict and that, consequently, this Court has jurisdiction in the premises, we are clearly of opinion that there was evidence here on which the Magistrate could find that the accused was guilty.

Therefore, the appeal should be dismissed.

*Appeal dismissed.*

Solicitor for the appellant: *D. J. McAlpine.*

Solicitor for the respondent: *E. A. Dickie.*

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JJ. \*PRESENT: Rinfret C.J. and Kerwin, Hudson, Taschereau and Estey