

testatrix's decease as convenient, and without any unusual delay, to pay all legacies and bequests, and make the division to the children as they attained twenty-one years of age, and in the meantime to invest their shares, etc.

*Held*, that by the first part of the clause the children took a fee simple in the lands, which as to the daughters was not interfered with by the subsequent part of the clause dealing with their shares during coverture.

*O. R. Macklem*, for the plaintiff.

*C. J. Holman*, for the defendant.

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*Queen's Bench Division.*

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Divisional Court.]

MCGINNIS *v.* DEFOE.

[Dec. 14, 1895.]

*Arrest—Felony—Issue of warrant—Absence of written information—Reasonable suspicion that felony committed—Notice of action—Sufficiency of.*

A magistrate acts without jurisdiction, and so renders himself liable in trespass, where, without any written information charging another with a felony, he issues a warrant for his arrest therefor; and while a reasonable ground for the belief that such person had committed the felony might justify the magistrate in arresting such person himself, it does not enable him to issue his warrant for his arrest by another.

*Ashfield's case*, 6 Co. 320, followed.

The notice of action in this case alleged that the defendant, on the 8th of September, 1893, wrongfully, illegally, and without reasonable and probable cause, issued his warrant and caused plaintiff to be arrested and kept under arrest on a charge of arson, and on said 8th of September maliciously, illegally and wrongfully, and without any reasonable and probable cause, caused plaintiff to be brought before him, etc., and to be committed for trial, etc., and to be confined in the common jail, etc., alleging the subsequent indictment of the plaintiff and his trial on the charge, and his acquittal.

*Held*, a good notice of action in trespass.

*Clute*, Q.C., for the plaintiff.

*W. R. Riddell*, for the defendant.

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Divisional Court.]

[Dec. 14, 1895.]

HENDRIE *v.* TORONTO, HAMILTON & BUFFALO R. W. CO.

*Railways—Lands injuriously affected—Right to compensation.*

On an appeal from the judgment of MEREDITH, C. J., at the trial following his judgment on the motion for the injunction reported vol. 31, p. 488, to the Queen's Bench Divisional Court, the judgment was affirmed and the appeal dismissed with costs.

*McCarthy*, Q.C., and *D'Arcy Tail* for the appeal.

*Robinson*, Q.C., and *Bruce*, Q.C., *contra*.