

payment. Some time after the debt was due the defendant offered to return the money. Plaintiff asked to see the bond, which was handed to him. Defendant asked him what he intended to do, and plaintiff replied that he did not think he would make the reconveyance just then, and refused to return the bond. Thereupon the defendant forcibly recovered possession of it, and in doing so assaulted the plaintiff.

In an action for assault, the defendant paid into Court the sum of \$5, which the trial Judge held to be sufficient to satisfy the plaintiff's claim for damages.

On appeal:—Held, that the assault on the purpose of recovering possession of the bond was justifiable.

Weatherbe, J., and Graham, E.J., dissented on the ground that the evidence showed that an unnecessary degree of violence was used.

Holmes v. McLeod, 25/67.

2. On a barrister in Court room—[Forcible removal by police.]—Plaintiff, who had been guilty of misconduct before the Stipendiary Magistrate of Halifax, was by his order removed from the Court room. He returned in about five minutes and was requested by the police to retire. Upon refusal he was by them forcibly removed and for a short time locked in a cell. In an action against the police concerned, for assault and false imprisonment, the jury, under direction of the trial Judge, found that the second removal was unwarranted and illegal, and awarded \$700 damages. Defendants appealed:—

Held, that the second expulsion, without an order from the Magistrate, was illegal, and not justified by his order to effect the first. Also, that under the circumstances, the damages were not excessive.

Bulmer v. O'Sullivan, 28/406.

3. Plea of previous conviction.]—To a civil action for damages for assault, the defendant pleaded that he had been previously convicted and fined before a Magistrate for the same assault, and consequently that the action was barred

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by R.S. Canada, c. 178, s. 75 (Criminal Code 866):—

Held, that the plea was bad unless it set out that the conviction was at the instance of the plaintiff.

Ross v. McQuarrie, 26/504.

ASSEMBLY, HOUSE OF.

Privileges—Sitting as a Court—Punishing for contempt—R.S. 5th Series, c. 3.]—The plaintiff had been adjudged guilty of contempt of the House of Assembly in presenting an offensive petition, and on refusal to apologize when brought to the bar, was by resolution committed to the common gaol for 48 hours. This action was against the Sergeant at Arms and a number of members, forming the majority which supported the action of the House, for false arrest and imprisonment, and resulted in a verdict for the plaintiff for the sum of \$200 damages, against all but a few members, in whose interests an act of indemnity had been passed.

On appeal:—Held, per Ritchie and Weatherbe, JJ., that the passing of the act of indemnity was within the power of the Legislature; and that the Legislature also had power to pass the provisions of R.S. 5th Series, c. 3, which were designed for the protection of members of the House of Assembly against the consequences of acts done within the House.

Per Graham, E.J., McDonald, C.J., concurring, that these provisions attempted to define crimes and affix punishments, a matter exclusively for Dominion control.

On further appeal to the Privy Council:—

Held, that the House of Assembly has statutory power to adjudicate that wilful disobedience to its order to attend in reference to a libel reflecting on members, is a breach of privilege and contempt, and to punish that breach by imprisonment.

As to the action for assault and imprisonment against members of the House of Assembly who had voted for the plaintiff's imprisonment:—Held, that