

yet as the warrant for the defendant's apprehension, which was returned upon certiorari, showed the complaint to be that the defendant sold liquor at a place within the magistrate's jurisdiction, and it was to be inferred that the evidence returned was directed to that complaint, sufficient appeared to satisfy the court that an offence of the nature described in the conviction was committed over which the magistrate had jurisdiction, and therefore the conviction should not, having regard to s. 889 of the Criminal Code, 1892, be held invalid.

Regina v. Young, 5 O.R. 184a, distinguished.

Held, also, that, by the combined effect of ss. 559 and 843 of the Code, it was discretionary with the magistrate to issue either a summons or a warrant as he might deem best; and therefore it was not a valid objection to the conviction that the magistrate included in the costs which the defendant was ordered to pay, the costs of arresting and bringing her before the magistrate under the warrant.

Upon the defendant tendering herself as a witness on her own behalf, the magistrate stated that, in view of the evidence adduced by the prosecutor, a denial by the defendant on oath would not alter his opinion of her guilt, upon which her counsel did not further press for her examination; but her husband was examined and gave evidence denying the sale of the liquor.

Held, that there was no denial of the right of the defendant, under s. 850 of the Code, to make her full answer and defence.

The defendant was a married woman, and the sale of the liquor took place in the presence of her husband; but the evidence showed that she was the more active party, and she was the occupant of the premises on which the sale took place.

Held, having regard to R.S.O., c. 194, s. 112, s-s. 2, that, even if the presumption that the sale was made through the compulsion of the husband had not been removed by s. 13 of the Code, it would have been rebutted by the circumstances.

Regina v. Williams, 42 U.C.R. 462, distinguished.

DuVernet for the defendant.

Practice.

OSLER, J.A.]

[Feb. 6.

AGRICULTURAL INSURANCE CO. v. SARGENT.

Appeal—Supreme Court of Canada—Security—Execution, stay of—Money in court—Payment out—R.S.C., c. 135, ss. 46, 47 (e), 48.

The plaintiffs appealed to the Court of Appeal from a judgment of the High Court dismissing their action with costs, and gave the security required by section 71 of the Judicature Act, by paying \$400 into court; they also gave the secur. *y* required by Rule 804 (4) in order to stay the execution of the judgment below for costs, by payin. \$322.14 into court. Their appeal was dismissed with costs. Desiring to appeal to the Supreme Court of Canada, they paid \$500 more into court, and this was allowed by a judge of the Court of Appeal as security for the costs of the further appeal.