

chasing from soldiers regimental necessities, equipments, stores, &c., and subsection (2) provides that 'where any such property . . . is found in the possession or keeping of any person, such person may be taken or summoned before a Court of summary jurisdiction . . . ;' while subsection (4) enacts that 'a person found committing an offence . . . may be apprehended without warrant and taken, together with the property which is the subject of the offence, before a Court of summary jurisdiction. . . .'

On November 19, 1893, a soldier asked Laws (the plaintiff), a youth of seventeen, to buy a military overcoat for 5s., saying that he had a right to sell it, and would have another as soon as he returned to his regiment. The plaintiff bought the coat. On the evening of Saturday, November 25, the defendant, a sergeant of police, spoke to the plaintiff on the subject, and the plaintiff admitted that he had bought the coat of a soldier and had it at his lodgings, and produced it. The defendant then took him into custody, and the plaintiff was locked up at eight o'clock that night till eleven o'clock next day (Sunday), when he was released on bail. He was subsequently brought before a Court of summary jurisdiction and fined 10s. and costs. The plaintiff then brought his action in the County Court, claiming 20*l.* damages for false imprisonment. The learned County Court judge held that the defendant had not justified his arrest of the plaintiff, who could not have been 'found committing' the offence of buying the coat as the purchase had taken place six days before. His judgment was for the plaintiff, with 5*l.* damages.

The COURT (CAVE, J., and COLLINS, J.) held that the judgment below must be reversed. The plaintiff had been found in possession of the coat, and the defendant, therefore, had a right to take him before a Court of summary jurisdiction. Police officers had discretion under the statute to take offenders into custody, and were not liable to an action of this kind, although such discretion be exercised unwisely or even harshly. Upon principle the defendant was right in what he did, although he might have adopted the more lenient procedure of issuing a summons.

Appeal allowed.
