Thus, on the one hand, where it is proved that the information contained the substance of the statement which the defendant made to the magistrate, the arrest is regarded as the direct consequence of the charge laid by the defendant. He is not protected merely for the reason that the information was laid by the advice of the magistrate, and that the defendant himself did not interfere in the issue of the warrant. (*a*) The operation of this principle is not affected by the fact that the party laying the information was bound over to prosecute. A man cannot excuse the prosecution of another person on a charge which he knows to be false, merely because, if he refuses to do so, he will suffer pecuniary loss by the forfeiture of his recognizance. The rule is the same, whether the defendant has, by preferring the charge before a magistrate, intentionally procured himself to be bound over, (*b*) or a judge has, of his own motion, bound him over to prosecute in consequence of his having given certain testimony regarding the plaintiff in the course of a previous trial to which they were parties. (*c*)

On the other hand, where a man only gives true information to a magistrate or other state official, who thereupon directs a prosecution, the man who merely gives the information is not responsible. (*d*)

Under the English Act of 1 & 2 Vict., ch. 110, abolishing arrest for debt on mesne process, but providing that, if a plaintiff shall, by the affidavit of himself or of some other person, shew to the satisfaction of a judge that he has a cause of action against the defendant to the amount of £20 or upwards, and that there is probable cause for believing that he

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(*a*) *Colbert* v. *Hicks* (1880) 5 Ont. App. 571. A representation by the moving party that he has reason to suspect that a crime has been committed is enough to justify the magistrate in issuing a search warrant: *Elsee* v. *Smith* (1822) 1 Dow & R. 97, or a warrant of arrest: *Davis* v. *Noake* (1817) 6 M. & S. 29.

(*b*) *Dubois* v. *Keats* (1840) 11 Ad. & E. 329.

(*c*) *Fitzjohn* v. *MacKinder* (Exch. Ch. 1861) 9 C.B.N.S. 505, diss. Blackburn and Wightman, JJ. The disagreement of the judges was upon the question whether the recognizance placed the defendant under compulsion to prosecute in such a sense that he was not responsible for the repetition of the false testimony which influenced the judge to direct the prosecution.

(*d*) *Johnson* v. *Emerson* (1871) L.R. 6 Exch. 329, per Cleasby, B. (344): *Lowe* v. *Collum* (1877) 2 L.R. Ir. 15. A justice has jurisdiction to issue a search warrant upon an information which merely alleges that a suspicion that a larceny has been committed. It is not necessary that it should allege that a larceny has in fact been committed: *Jones* v. *German* (1897) 1 Q.B. (C.A.) 374, affirming [1896] 2 Q.B. 418.