arrest and imprisonment, it appeared that plaintiff was arrested and conveyed to jail upon a warrant issued by defendant, a justice of peace for the County of Hants, for the collection of the sum of $4.20, being three years' poll tax at $1 for each year, and an amount due for costs incurred on a general distress warrant previously issued by defendant for the collection of the taxes, to which a return had been made by the constable that he was unable to find any goods whereon to levy. It further appeared that before he issued the warrant under which plaintiff was arrested defendant had before him the affidavit of the secretary of school trustees for the district in which plaintiff resided, shewing that he had not paid his tax for three years, and that the trustees had authorized the secretary to collect the amount.

The evidence on the trial shewed that plaintiff was a defaulter in respect of his poll tax, and that a demand had been made upon him for payment in each of the three years for which the tax was claimed, and that on each occasion he had refused to pay. The jury found, in answer to questions submitted, that defendant acted in perfect good faith in all that he did, and in the belief that all he did was authorized by the statute, and that he was required by the statute to do what he did, and the learned trial judge thereupon directed judgment to be entered for defendant.

Held, refusing with costs a motion to set aside the findings and the judgment entered upon them, that defendant, having jurisdiction over the subject matter brought before him, and over the person of plaintiff in respect thereto, was not liable in trespass, either by reason of his having issued the warrant for arrest without proof of a previous demand made upon plaintiff for payment of his tax, or by reason of a departure from the prescribed form of warrant.

2. The defendant did not do any act which he had not power and jurisdiction to do upon a proper case; the most that could be said being, that he proceeded in an irregular way.

3. Excess of jurisdiction does not extend to a mere irregularity or erroneous judgment, but to a case where the justice does an act which he has no jurisdiction to do.

4. Under the Nova Scotia Statutes the duty of enquiring into the validity of the rate is not imposed upon the justice, and that the English cases, where the justices had jurisdiction to levy rates "well assessed," are therefore distinguishable.

5. Defendant's entry upon the enquiry was clearly within his duty and his jurisdiction.

F. T. Congdon, for appellant. *W. E. Roscoe*, Q.C., for respondent.