

named, but, on the case being adjourned, did not then attend, and the case was further adjourned. The prosecutor forthwith laid an information on oath before the magistrate that the witness was a material one, and that it was probable he would not attend to give evidence, upon which the magistrate issued a warrant addressed to the chief constable, or other police officer, etc., and to the keeper of the common jail of county and city, directing them to bring the witness before him on the date of the adjournment, some five days distant. The witness was forthwith arrested by two police officers and brought to the office of one of the police inspectors, and, on his refusing to answer the questions usually put to criminals, except those as to his name and address, the inspector ordered him to be searched, which was done, and his personal property, consisting of a watch and chain, some money, and private memorandum book, were taken from him, the latter being opened and read by the inspector. He was then taken to the cells, where he remained some twenty minutes, when he was brought before the magistrate, and, on his giving his personal undertaking to appear on the day named, he was liberated. In an action against the police magistrate and the police inspector,

Held, reversing the judgment of ROSE, J., at the trial, that, the magistrate having jurisdiction by virtue of s. 62 of R.S.O., c. 174, to issue the warrant, he incurred no liability, even though he may have erred as to the sufficiency of the evidence before him, and on which he acted.

The court disagreed as to the defendant Stephen, MACMAHON, J., being of the opinion that the judgment of ROSE, J., should be affirmed, namely, that the inspector had no authority to direct the examination and search of the witness and his commitment to the cells, and he was, therefore, liable therefor; while GALT, C.J., was of opinion that he was protected under s-s. 2 of s. 1 of R.S.O., c. 73, as he was acting in the execution of his office, and no malice was shown.

Held, also, that there was no necessity for setting aside the warrant before bringing the action.

Quare: Whether s. 62 authorizes the issue of the warrant or its enforcement an unreasonable length of time before the day named for the attendance of the witness.

Quare, also: Whether, in an action of this kind, questions can properly be submitted to the jury, or whether they should be directed to find a general verdict.

Osler, Q.C., for the plaintiff.

T. D. Delamere, Q.C., and *Oliver Macklem* for the defendant Denison.

Herbert Mowat for the defendant Stephen.

Div'l Court.]

[Jan. 6.

GRAHAM v. CANADA LIFE ASSURANCE COMPANY.

Insurance—Married women—Assignment of policy—Validity of.

A husband, on the 24th December, 1878, and 16th of May, 1880, effected two policies of insurance on his life for the benefit of his wife, and died in 1892. On the 26th of October, 1886, the wife assigned the policies to P., as collateral security for the payment of a note for \$500, made on the same day by