

Robertson, J.]

[March 12.]

WINTERBOTTOM v. POLICE COMMISSIONERS OF THE CITY OF LONDON.

*Police Commissioners—Patrol waggon—Constable—Servant—Municipal Act—R.S.O. 1897 c. 223, s. 481—62 Vict., c. 26, s. 28 (O.).*

A constable in charge of a patrol waggon is not a servant of a Board of Commissioners of Police, constituted under s. 481 of the Municipal Act, R.S.O. 1897 c. 223, as amended by 62 Vict., c. 26, s. 28 (O.), so as to make them liable for his negligence in performance of his duties.

*J. Hellmuth, for plaintiff. T. G. Meredith, for defendants.*

Lount, J.]

FARLEY v. PEDLAR.

[April 19.]

*Interpleader—Practice—Issue—Party plaintiff—Sheriff remaining in possession—Place of trial—Security for costs—Execution creditor—Insolvency.*

Where the claimant is in possession of the goods at the time of seizure, the execution creditor is made plaintiff in the interpleader issue directed on the sheriff's application. And this rule applies where the claimant is the wife of the execution debtor, and the goods are seized upon the premises in which a business is carried on by her, in which she is assisted by him, but in which he has no interest.

Where the goods seized were manufactured materials, the product of a going concern, a direction in the interpleader order that the sheriff should continue in possession until the final disposition of the issue was upheld against the contention of the execution creditor that the sheriff should be directed to sell the goods, or the claimant to pay into Court or give security for the appraised value.

An interpleader issue should ordinarily be tried in the county where the goods are seized; but where the sheriff is to remain in possession of the goods of a going concern, a speedy trial is so important that, for the purpose of securing it, the issue may be sent to another county, having regard to considerations of expense and convenience.

Under the discretionary powers given by Rule 1122, the execution creditor, being in insolvent circumstances, may be ordered to give security for the sheriff's costs.

*W. H. Blake, for sheriff. H. T. Beck, for execution creditor. Ritchie, K.C., for claimant.*