

defendant had no reason to suppose he would run away, and a summons on the Monday following would have answered the purpose. Instead of this moderate and reasonable course the plaintiff, then an intoxicated man, is hauled out of the house, handcuffed and thrown into jail on Saturday, where, if he is to be believed, he suffered from the cold at that time of year, and defendant does not pretend he notified the keeper that plaintiff was in the lockup. There were some questions of law raised by the plaintiff's counsel which is not necessary for me to decide in the view I take of the facts, but I mention them in case this matter goes further, to inform the Court of appeal that they were before me.

In fixing the damages, I must take into consideration the plaintiff's conduct throughout, which does not commend itself to me. I disbelieve some of the evidence given by himself and witnesses in reference to his own condition and conduct at the time, but in view of the unnecessary and unjustifiable proceedings of defendant, I feel bound to award him substantial damages, which I fix at fifty dollars. Judgment for plaintiff for that amount with costs.

NOVA SCOTIA.

SUPREME COURT.

JUNE 1ST, 1909.

EUGENE ILER AND JENNIE ILER v. HENRY
C. GASS.

Assault—Bodily Injury—Police Officer Arresting Woman for Drunkenness—Technical Assault—Notice of Action—Plea.

J. P. Bill, for plaintiff.

S. D. McKellan, K.C., and A. C. Patterson, for defendant.

TOWNSHEND, C.J.:—The defendant, chief of police of the town of Truro, is charged with an assault upon plaintiff's wife, who was then in an advanced stage of pregnancy, and that such assault caused her premature delivery, much pain and suffering and extra expense.