

and client; otherwise notice of action in these cases seems to be no longer necessary.

Here it is set out in the statement of claim and admitted by defendants that on or about 5th December, 1912, notice of action as directed by ch. 88 was served on defendants personally. But this would not revive the repealed Statute.

Affidavits have been filed by all the defendants (on which they have not been cross-examined) setting up what will be a conclusive defence if proved, viz., that all that was done to plaintiff was at her own suggestion and with her consent to relieve her from imputations of misconduct and that they never acted or assumed to act in any way as police officers. It is admitted that plaintiff and her next friend are not good for costs.

In *Parkes v. Baker*, 17 P. R. 345, it was held by the C. P. D. that the pleadings must be looked at to determine whether a defendant who holds a public office is sued as such and so entitled to security for costs. Applying that test to the present statement of claim, it seems clear that the defendants other than Ashton are being so proceeded against at least as to everything except the alleged charges of assault and perhaps of conspiracy to cause the arrest or assault of the plaintiff. There is nothing, however, alleged against the other defendant of this character. He is not even said to hold any public office. As to him, therefore, it is plain the motion cannot succeed.

As to the other three defendants the question is different. The allegations of the statement of claim are quite unmistakable that they being police officers arrested the plaintiff or caused her to be arrested and imprisoned "illegally and without reasonable and probable cause." On the present statement of claim I am unable to see how these defendants can be denied security.

A case very similar in some respects is *Lane v. Clinkinbroomer*, 3 O. W. R. 613, where security was refused.

The plaintiff may have leave to amend if desired so as to make a claim, e.g., for assault and conspiracy or otherwise as thought best. This should be done in a week and if not the order must go for security as to the three police officers.

Costs will be in the cause in either case.