

home at Woodstock in the summer of 1898. While there, she was arrested for arrears of school taxes on an execution issued at the instance of defendants; under Can. Stat., c. 100. The sections providing for the arrest of non-residents had been repealed in 1897, and there was consequently no authority for plaintiff's arrest. She was lodged in gaol, and kept there for seventeen days before the trustees learned of their mistake and ordered her release. The gaoler granted her the use of his private apartments, and allowed her to go out into the yard and garden, and she was also permitted to give music lessons in the gaol. In an action for false imprisonment the Judge directed the jury that if they found plaintiff was a non-resident her imprisonment was illegal, and that he thought they should impose, not punitive damages, "but such reasonable, substantial damages, not technical damages such as one cent, or the lowest coin in the realm, but reasonable and substantial damages for her imprisonment, and for the reasonable consequences following from that imprisonment, whatever they were." In concluding, he said all the circumstances, including the fact of necessary expense of counsel, was "all for your (the jury's) consideration." The jury found that the plaintiff was a non-resident, and assessed the damages at \$1.00.

Held, on motion for a new trial, VANWART, J., dissenting, that the verdict was perverse, and new trial ordered.

W. P. Jones and C. N. Skinner, Q.C., for plaintiff.

F. B. Carvell and L. A. Currey, Q.C., for defendants.

Full Bench.]

DOWNING v. CHAPMAN.

[Nov. 11, 1898.]

Slander—Privileged communication—Inconsistent verdict.

This was an appeal from the Albert County Court in an action of slander, in which respondent, plaintiff below, recovered a verdict for \$10.00. There were four counts in the declaration, and the defamation alleged was substantially that plaintiff, a physician, had got E. D., defendant's sister, in the family way, and produced an abortion upon her. The publications set out in the first three counts were made to defendant's father and mother, and to two brothers-in-law respectively, and the words complained of in the fourth count were spoken to a postal clerk on the same train of which defendant was conductor. The judge directed the jury that the occasions of the conversations with the father and mother and brothers-in-law were all privileged, and that defendant would not be liable in these cases, unless they found the words were spoken with malice. The conversation with the postal clerk, he directed, was not privileged, and that for this defendant would be liable, if the words were not true. He left two written questions to the jury, viz., "Were the words true?" and "Was there malice?" The jury found a verdict for plaintiff for \$1.00 on the first count, \$2.00 on the second count, \$3.00 on the third count, and \$4.00 on the fourth count. After the verdict had been entered