

Per MEREDITH, J. : The municipality is not a wrong-doer, and, therefore, it is not a case of assessing damages for a wrong done.

Per FERGUSON, J. : Interest should not be allowed upon mere unascertained damages, and damages in respect of lands "injuriously affected" are damages of that character.

Re McPherson and the City of Toronto (1895) 26 O. R. 558 referred to.
Judgment of STREET, J., reversed. FERGUSON, J., dissenting.

Armour, C.J., Falconbridge, J., Street, J.] [Sept. 12.

RE GUINANE.

Assignment for benefit of creditors by one member of firm—Examination of manager as agent, clerk, servant, officer, or employee of assignor—R.S.O. 147, s. 34.

A manager of a firm composed of two partners comes within the designation "agent, clerk, servant, officer or employee" in s. 34 of R.S.O., c. 147, and is examinable as such, although the assignment is made by one partner only, and the partnership had been dissolved previous to the assignment. Judgment of Meredith, C.J., reversed.

Clute, Q.C., for the assignee. *W. J. Boland*, for the manager.

Armour, C.J.] REGINA v. GIBSON. [Sept. 12.

Police magistrate—Summary trial before—Court of record—R.S.O., c. 83—Habeas corpus.

The defendant was charged before the police magistrate for the city of Hamilton with the offence of procuring females for immoral purposes, an offence triable at the General Sessions of the Peace, but elected to be tried summarily, and was tried by the magistrate, and by him convicted and sentenced to imprisonment and fine. An application for a habeas corpus was made under R.S.O., c. 83, which provides for the issue of such a writ where a person is confined or restrained of his liberty, except persons imprisoned for debt or by process in any action, or by the judgment, conviction, or order of a Court of record, Court of Oyer and Terminer, or General Gaol Delivery, or Court of General Sessions of the Peace.

Held, that the words "a Court of record" are intended to include only Superior Courts or principal Courts of record, and do not include any Courts of record inferior to or less principal than the High Court of Justice: *Gregory's Case*, 6 Co. 20 b.; *O'Reilly v. Allen*, 11 U.C.R. 526. If all Courts of record had been intended, there would have been no necessity for adding "Court of Oyer and Terminer," etc., for these were all Courts of record: *Regina v. St. Denis*, 8 P.R. 16, and *Regina v. Goodman*, 2 O.R. 468, not followed, the liberty of the subject being involved.

J. Dickson, for defendant.

Boyd, C., Robertson, J.] MAGANN v. FERGUSON. [Oct. 4.

Money in court—Payment in with defence—Election to take out—Time—Extension—Judgment—Rules 353, 419, 424.

A defendant brought money into Court with his defence under Rule 419,