

bell, tried without a jury.* The verdict was for the defendant, and there is an application for a new trial. The learned Judge told the jury:—

“You have heard some talk about thirty and forty days, but he was not imprisoned as the result of what Peter Campbell did, but a very short time. I don't think that he, Peter Campbell, is responsible for the period in which the plaintiff was in jail between the 29th August and when the warrant was issued. There is no evidence that Peter Campbell directed the arrest at all. There is evidence that a police officer was called in as a result of Peter Campbell's instructions. If these men were arrested without a written charge or warrant, then the police officer is the man that is responsible, and not the defendant. He is only responsible from the time that he has preferred a charge against this man Chak, and that was on the 6th day of September.”

As I have indicated in that opinion, the only matter or incident in respect to which, upon the evidence, the defendant could be held liable, was the detention between the 30th of August, 1907, and the date of the 6th of September, when the facts were laid before the Stipendiary Magistrate for a warrant.

Indeed, I think the only question is whether the plaintiff, Sam Chak, having been arrested, justifiably as I think, without a warrant, was not held an unreasonable length of time before taking him before a magistrate.

That matter was not placed before the jury except in the way I have indicated.

It must be remembered that the charge of malicious prosecution is withdrawn, and only the charge of false imprisonment remains.

The verdict must be set aside with costs, and a new trial granted. The defendant will have the costs of the application already granted to have the entry of the verdict made in accordance with the oral announcement in Court made by the jury, and the entry thereof by the prothonotary.

These costs will be set off against the plaintiff's costs just awarded.

RUSSELL and DRYSDALE, JJ., concurred.

EDITOR'S NOTE.—Reported *post*. See p. 421.