

“Q. Are you sure of that? A. I am positive, certain of it.

“Q. You don't know whether the gate was locked or not? A. I don't know.

“Q. You didn't assist the sheriff? A. No, I did not.

“Q. Were you near the gate? A. The nearest I was to the gate was when I was going through it. I didn't give any instructions at all.”

The plaintiff's counsel relies upon other testimony, but it does not shew that any overt act was done by the defendant. This is it. Edwards, the constable making the arrest, says:—

“Q. How many constables and other officers were there? A. There were Mr. McCormack and another policeman.

“Q. Did you see the defendant, Campbell, there? A. Yes.

“Q. Have any conversation with him? A. I was talking to him. He said if I wanted any assistance to call for it. I said could I call for him. He said he thought so, if I needed to call for him.

“Q. That is, if you found it necessary? A. Yes, of course there was officers.

“Q. When did you first see Campbell that day? A. I am not sure. I think at the jail yard. I may have seen him at the police station. The warrants were handed to me at the city police station. I didn't receive them from the magistrate. I think it was from Mr. Charles Smith.

“Q. He was the acting lawyer at the time? A. Yes.

“Q. I understand that you consulted with Mr. Campbell from time to time to get directions about this thing? A. Well, I don't know that I took any particular directions. Of course there was a couple of other warrants issued besides the Chinamen's, and I met Mr. Campbell and we spoke about them. I had a warrant for the arrest of Dan McDonald, Klondyke Dan, so called.”

Prosecutions before the County Court Judge's Criminal Court are not, usually, carried on by private parties, and in this case, this prosecution could not be said, in any sense, to be carried on by the defendant. He may have been a witness, but there is no other connection between him and that prosecution, other than the information made before the magistrate below.