character. It was in this state of the law that *The Queen* v. *Row*, 14 U. C. C. P. 307, and *Hunt* v. *McArthur*, 24 U. C. Q. B. 254, were decided. This must be remembered, because the law on which they were founded has been altered.

The next Act is the 29 & 30 Vict. (1866). Section 360 is in the same language as section 365 of the Consolidated Act, with the addition that it authorizes any justice of the peace for the county to issue his warrant to try or investigate any case in a city, where the offence had been committed in the county, or union of counties, in which the city lay, or which it adjoined. This addition was no doubt occasioned by the decision in *The Queen* v. *Row*. Then section 373 enacted, that the recorder and police magistrate should be *ex officio* justices of the peace as well for the town or city as for the county in which they were situated, but that no other justice of the peace should adjudicate in any case, for any town or city where there was a police magistrate, except in the case of illness, etc.

By the Ontario Act 32 Vict., cap. 6, the above section 360 is altogether repealed. The office of recorder is abolished, and for the above section 373 is substituted a section in the words of the present section 308 of the Act of 1873.

I have gone into this somewhat tedious detail, to make manifest two results—at least as the effect appears to me. First, that there is now no distinction as respects the jurisdiction of county magistrates between a town and a city—all now depends upon section 308 of the Act of 1873, and the law upon which the *Queen* v. *Row* was decided is therefore changed. The question is now, not whether the locality is a town or city, but whether or not there is a police magistrate; and, secondly, that these sections, although in the later Acts more precise and cogent language is used than in the old ones, are still meant to enforce the same original idea—that the exclusion is altogether *local* in its character, and is meant to distinguish the jurisdiction of the county and city, or town magistrates as among themselves in respect of matters arising in the county, town or city. There is judicial decision to this effect In *Regina* v. *Morton*, 19 U. C. C. P. 9. Hagarty, C. J., takes this view of the then existing clause; and Gwynne, J., says (p. 27): "But it is further contended that the provisions of sections 356, 360 and 367 to 373 inclusive, of 29 & 30 Vict. cap. 51, have the effect of prohibiting and restraining Mr. McMicken—although acting under 28 Vict. cap. 20, from acting as a police magistrate in this matter within the city of Toronto, which has a police magistrate of its own. This contention rests upon no solid foundation, and it involves, in my judgment, a misconception of the object and intention of the sections referred to, the plain import of which, as their language unequivocally conveys, is to establish certain local courts having limited criminal jurisdiction, and to define the respective jurisdictions of the police magistrate of a city situated within a county, and of the justices of the peace of that county, in respect of offences committed within the city and county respectively. This is the sole object of the sections referred to. They have no application whatever to proceedings under the Extradition Treaty (which the matter then before the court concerned), which relates to offences committed in a foreign country."

This is to the very point. The taking of a recognizance in an election petition has no reference to any locality. It may be done in any county of the Province, and, therefore, there is no reason to suppose the act by a county magistrate, in a police town, forbidden by section 308.

There is very old and well-established law defining those acts which a justice may do out of his own county. It is to be found in "Bacon's Abridgment, Justices of the Peace," E. 5. It is there said, "As justices of the peace have no coercive power out of their county, they cannot make an order of bastardy or such like orders out of their county. But a justice of the peace, as we have already seen, may do a ministerial act out of the county, such as examine a party robbed, whether he knows the felons, according to the statute or not. Also by the better opinion, recognizances and informations voluntarily taken before them in any place are good, for those, says my Lord Chief Justice Hale, are acts of voluntary jurisdiction, and may be done out of the county, as a bishop may grant administration, institution or orders out of his diocese. But a Justice cannot imprison a person for not giving a recognizance, or commit a person for a crime, for these are acts of compulsory jurisdiction which he cannot exercise out of his proper county." 2 Hale, 51, 2 Hawkins, 47, are the authorities for this, and the distinction as to voluntary and coercive jurisdiction, is noticed in Paley on Convictions, p. 18, without any hint that it is not well founded. In Petersdorf on Bail, 511, it is said that recognizances voluntarily taken before justices out of their own county are valid.