

In a country like this there are few large cities, and none to be compared in size or density to cities in the old country, and a few minutes walk would bring a person into the fields from any of them, and a few minutes more bring him back again; and though this may not in the slightest degree affect the principles of the decisions referred to, it would nevertheless be well in any case in which the facts were at all similar to those in *Taylor v. Humphries*, for those concerned to keep in view the different positions of the countries, as one of the "circumstances under which a guest is admitted and supplied."

A WORD TO MAGISTRATES.

The case of *Connors v. Darling* (reported in Volume X. of the *U. C. Law Journal*, page 291), ought to serve as a warning to magistrates. There was no imputation of bad faith or improper motive to the defendant, who was a magistrate, but the plaintiff nevertheless suffered by reason of an illegal imprisonment on his warrant, and it is probable the defendant will not get out of the difficulty under three hundred dollars for damages and costs.

Our readers will remember the facts of the case: the defendant was charged with larceny and brought up on a warrant before the magistrate. He did not offer bail or ask for an examination, and the magistrate, under a mistaken notion of duty, at once made out a warrant of commitment for trial, instead of bringing the accuser and accused face to face and taking the evidence of witnesses in the manner pointed out by the statute regulating the duties of magistrates out of session: (Con. Stat. Can., cap. 30.)

It was urged for the magistrate that he had some jurisdiction, and was consequently within the protection given by the act for the protection of magistrates (Con. Stat. U. C., cap. 126), and the judge of the County Court in which the action was brought felt naturally embarrassed in this very peculiar case, and in a very carefully considered judgment, at last, and with much hesitation, decided in favor of the magistrate; but the Court above, whilst willing to see every reasonable protection given to magistrates, thought that the law would be in a singularly unsatisfactory state if there could be no redress for such an injury committed in clear violation of the precise words of the statute, although with-

out any improper motive in the person committing the injury.

Magistrates have by some means got the notion that the statute just mentioned enables them to do anything with impunity, if only they act with honest intentions. Never was there a greater or more dangerous mistake. The statute, no doubt, like charity, covers a multitude of sins, and really leaves many grievous wrongs committed by magistrates in the exercise of their great powers wholly without redress. But when a magistrate has no jurisdiction, or acts as in the case of *Connors v. Darling*, he must abide the consequence, for, as suggested by the learned judge (Hagarty, J.) who delivered the judgment of the Court of Queen's Bench, injuries to liberty and property committed from mere ignorance may be as damaging in their results as if committed from vindictive or malicious motives.

This case, will, we hope, make magistrates careful on their own account, when acting under any statute, to have the law before them, and to follow its directions closely; and above all to remember that the law strives anxiously to guard against illegal imprisonment, except on a clearly defined charge made out by witnesses brought face to face with the accused, and that juries may properly give liberal damages for an illegal imprisonment.

COUNTY ATTORNEYS AND DIVISION COURT CLERKS.

We are informed from several quarters that the County Attorneys in Upper Canada have come to an understanding to make no allowance whatever to Division Court clerks purchasing stamps in quantities. We hope that this is not the case, for we think it would be exceedingly unfair, and we fail to see upon what ground it can be defended. By Con. Stat. U. C., cap. 20, County Attornies were allowed four per cent. on fee fund moneys passing through their hands. For this they had to see that all Division Court clerks duly accounted, and to report them if default made; to examine a number of accounts each quarter; to render accounts to the Minister of Finance, with such particulars as he might require; to pay the salaries and disbursements authorised; to report on any deficiency and obtain the Governor's warrant to make it good. Now they have simply to send their