

The defendant was summarily tried by the police magistrate for the county of Brant, upon an information for selling intoxicating liquor to an Indian, contrary to the Indian Act. The magistrate heard the evidence and at the conclusion, in presence of the defendant, reserved judgment, appointing a day and place for giving it. Upon the day and at the place so appointed, the magistrate gave judgment against the defendant, and then proceeded to sentence him in his absence to four months' imprisonment, without the option of a fine.

*MacKenzie, Q. C.*, for the defendant, contended that the sentence, being for corporal punishment, was improperly pronounced in the absence of the defendant, citing *Duke's Case*, 1 Salk. 400.

*Delamere*, for the magistrate, and *Aylesworth*, for the prosecutor, contra, referred to R. S. C., c. 178, s. 39, and to *Regina v. Smith*, 46 U.C.R. at p. 445.

Galt, C. J., made the order for the prisoner's discharge.—*Regina v. Green*, in chambers, Galt, C. J., March 23, 1888.

#### CONTEMPT OF COUNTY COURTS.

In the Queen's Bench Division, before Mr. Justice Cave and Mr. Justice Smith, on April 24, the Court gave judgment in the case of *Regina v. Jordan*, argued on the 13th inst.,—an application on behalf of Mr. W. Turner, a solicitor, practising at Newcastle-under-Lyme, for a *certiorari* to quash an order of his Honour Judge Jordan committing him to prison for contempt of Court under the following circumstances:—A Mrs. Madden, a client of the solicitor, had sued him in the County Court for the sum of £10, which she alleged she had paid to him for the purpose of obtaining an opinion of a Queen's Counsel, which she alleged he had not done. The case was tried before his Honour the County Court Judge and a jury, and resulted in a verdict for the plaintiff. Subsequently Mr. Turner applied to the judge for a new trial, on the ground that he had been taken by surprise by the evidence of the plaintiff, who had said that she could not write or read a receipt. This evidence, he stated, he was prepared to contradict. The judge, however, said that

the question was clearly one of fact, and refused to grant a new trial; upon which Mr. Turner stated that he had instituted proceedings against the plaintiff for perjury, and this elicited from the judge the remark that he concurred with the verdict of the jury, and that he thought that Mr. Turner had obtained the money on the pretence alleged by the plaintiff. Mr. Turner thereupon said, 'That is a most unjust remark,' whereupon the judge said, 'I fine you £5 or six days; this is a most gross contempt of Court. Subsequently his Honor called upon Mr. Turner to apologize, and on his refusal to do so made out a warrant for his commitment to Stafford Gaol, the warrant being in form for six days and containing no reference to the alternative of a fine. Mr. Turner was committed to prison the next day, but released on the day following.

A rule was obtained for a *certiorari* to bring up and quash the order on two grounds—first, that under the circumstances of the case there was no evidence of wilful insult on the part of Mr. Turner; secondly, that the order was bad, as no mention was made in it of the fine as the alternative to the imprisonment.

Mr. Justice Cave, in giving judgment, said that the order of the judge was made under section 113 of 9 & 10 Vict. c. 95, which gave him power to fine or commit to prison any person who should be guilty of wilfully insulting the judge. As to the first ground upon which the rule had been obtained, the Court were of opinion that in this case there was most ample evidence of wilful insult. Mr. Turner had interrupted the judge with the observation, "That is a most unjust remark." Those words constituted a very grave insult. It was hardly possible to conceive a graver; it would be impossible for justice to be administered with decorum if any disappointed suitor might interpose remarks of such a nature with impunity. His lordship added that these observations practically disposed of the first objection; but, having regard to the importance of maintaining the respect which was due to the judges of County Courts, he desired to add his own view of the facts of the case. As it appeared from the newspaper report of the proceedings in the County Court, Mr. Turner had applied for a new trial,