

not see that this makes a distinguishable difference. There is no law which makes the liability greater or other by the contract being made in an office and that made elsewhere. The only question is the authority of the agent, and that has been recognized by the Company. If companies choose to enter into negotiations in remote places, they must be ready to meet the complaint there of those with whom they deal.

Motion for leave to appeal rejected.

COURT OF QUEEN'S BENCH.

MONTREAL, June 12, 1880.

Sir A. A. DORION, C. J., MONK, J., RAMSAY, J.,
CROSS, J.

Ex parte MACNAMEE, Petitioner for writ of Habeas Corpus.

Contempt of Court—Commitment—Right of the accused to be heard—Setting out the offence in the commitment—Signature to warrant of commitment.

RAMSAY, J. The prisoner was committed to prison for ten days, for that he "being personally present before the said Court of Sessions of the Peace, hath this day been guilty of divers gross insults and contemptuous behaviour to the said Court of General Sessions of the Peace for the District of Montreal, and hath been guilty of contempt to the said Court by using abusive and opprobrious language, by refusing to obey the lawful orders and commands of the said Court, and by using violent and threatening gestures before said Court." The commitment then goes on to state: "Whereas, the said Francis B. McNamee, in consequence of such insolent and contemptuous behaviour, contempt and language, is here adjudged, ordered and condemned to be imprisoned," &c. It is contended on the part of the petitioner that this commitment sets forth no offence, and that the warrant, being signed by the Clerk of the Peace, is not duly signed.

The Court intimated at the argument that the signature of the Clerk of the Peace was the proper signature for the Court. We have, therefore, to examine only the first ground. It was argued that the Sessions of the Peace is a court of record, and therefore has power to commit for a contempt, at all events, a contempt *facie*

curiæ, but being an inferior court, it must set forth the offence specially, so that the Court of Queen's Bench may exercise its general controlling and revising power over the proceedings. For instance, it is contended that if the contempt should consist in words, that the words used must be set up,—if of gestures, that the peculiar gestures should be described.

I entirely concur with the counsel for the petitioner in the general principles they rely on. The whole law of contempt is limited by the necessity on which it is based, and it seems, therefore, that when an inferior tribunal exercises its power to commit for contempt, it does so subject to the revision of the Superior Courts of Law, and so in *re Pater*,* Cockburn, C. J., said that the Court of Queen's Bench in England has the authority to intervene and prevent any usurpation of jurisdiction by the inferior court; and he says: "If it treats conduct as a contempt, which there is no reasonable ground for so treating, this Court may interfere to protect the party upon whom the power to commit or fine for contempt has been improperly exercised." If any other doctrine were to be entertained for an instant, it is manifest that the most serious abuses would arise, and injury done for which there would be no adequate relief. It seems to me not less clear that even the highest Court is obliged in committing for contempt to specify in what the contempt consists. This is really saying that a vague or general warrant is not a sufficient detainer. *Magna Charta*, the *habeas corpus* act, our own re-enactment of it, all say or imply simply this. It has been said there were exceptions where the commitment was by the highest courts or by the Houses of Parliament. I am not prepared to admit the exceptions unless there be a statute authorizing it, and the decisions which go to support such a doctrine appear to me to be of no authority. The practice of general secretary of State warrants was as firmly established as precedents could make it, and yet it was ultimately destroyed by a single judgment.

The question, then, before us is as to whether this warrant is sufficiently specific. I cannot conceive there should be any doubt on this point. It is as ample as any definition or explanation of a contempt I have ever seen.