

any member of the community whose rights have been violated by reason of a magistrate's departure from his line of duty may apply to the court (R.S.O. c. 88, s. 6) to compel him to proceed with a trial in accordance with law.

In *Collier v. Hicks*, 2 B. & A., Tenterden, C.J., says, at p. 668 : " This (being a case of a court proceeding on a summary conviction) is undoubtedly an open court, and the public had a right to be present, as in other courts." Park, J., remarks, at p. 671 : " All the king's subjects may be present."

Sir Frederick Pollock, in his address on the expansion of the Common Law, published in the *Harvard Law Review* says : " When we pass from the second to the third quarter of the nineteenth century, we find that the Parliament of Queen Victoria has taken a widely different course from the Parliament of King Philip and Queen Mary. The secret inquisitorial proceeding has become open and judicial ; there is no longer an examination of the prisoner, but a preliminary trial in court, the police court, which in modern times is to many citizens the only visible and understood symbol of law and justice. The magistrate's office is more public than ever ; the feeling that judgment should be done in the light of day has been strong enough to reassert itself after a partial eclipse. . . . In this we have a tradition which has persisted through all changes. Like other rules of patience, the rule of publicity is not quite inflexible ; some few exceptions are allowed on grounds of decency or policy, and in some jurisdictions they have been confirmed or extended by statute. . . . The settled judgment of our ancestors and ourselves is that publicity in the administration of the law is on the whole—to borrow words used by my friend, Mr. Justice O. W. Holmes, in another context—" worth more to society than it costs."

In challenging the course of the magistrate in respect of these inquiries, the amendment of the Criminal Code of 1901, 550 *a* 2, has not been overlooked. There is no doubt that, with regard to the crimes and offences particularized (all of them cases where the matter of sex is concerned, and those ejusdem generis with them), the rule of practice as to excluding adult women and children only becomes superseded, and that every class of auditors may be turned out ; but the saving clause found in sub-s. 2 could have no operation here, for, even if the section, as a whole, embraced a Justice of the Peace, which admits of considerable doubt, the com-