of the central prison, and further argument of the motion for the discharge of the prisoner was heard by the learned Judge.

Eric N. Armour, for the prisoner.

J. R. Cartwright, K.C., for the Crown.

RIDDELL, J.:—Mr. Armour argues that no power exists in the police magistrate to amend a conviction, reasoning from the analogy of convictions made by the Sessions. He points to the various provisions of Part XVI. of the Criminal Code as shewing the analogy. No doubt, such analogy does exist to a certain extent, and there is a clear line of demarcation, historically and otherwise, between summary convictions under Part XV. and convictions after summary trial under Part XVI. But, though there is an analogy between convictions of this kind and those before the Sessions, the analogy is not perfect—otherwise a writ of habeas corpus would not issue. The statute 29 & 30 Vict. ch. 45, sec. 1 (C.), expressly excludes the case of a prisoner imprisoned under conviction of the Court of General Quarter Sessions.

If, then, this conviction is on all fours with that of the Sessions, the present application must fail. I think it is not: Rex v. Morgan, 5 Can. Crim. Cas. 63, 272.

In respect of the original warrant, I hold that it is bad: ante at p. 949. Had the writ of certiorari in aid not issued, I should on the previous occasion have discharged the prisoner: Re Timson, L. R. 5 Ex. 257; Regina v. Chaney, 6 Dowl. 281. But a certiorari has issued, and under that I find returned a conviction which is perfectly good upon its face and wholly supported by the evidence. The argument that there was an original conviction, and this an amended conviction, and that, being a conviction under Part XVI., it could not legally be amended, has, in my opinion, nothing to support it. It is a conviction not by the Sessions but by a magistrate; and I can find no authority for the proposition that the general rule as to amending before return to a certiorari is not applicable to a case of this kind.

As to the power to permit an amendment of the warrant after the return to the writ of habeas corpus has been made, my doubt that this did not exist independently of the statute (ante 949) has not been removed. The cases cited in Regina v. Lavin, 12 P. R. 642, do not seem wholly to support the proposition. Those cited in Paley on Convictions, 8th ed.,