

PRELIMINARY EXAMINATION.

Before the examination commenced Mr. Gray asked Mr. Wetmore to elect upon which charge he would now proceed, and to state in whose name he was proceeding. Mr. W. replied that he would only state that he was proceeding upon the complaint of Isaac Willett. He first stated that he would take up the charge of murder, and subsequently decided to proceed with that of piracy, in the first instance. Mr. Gray then objected:

1. That this Court has no power or jurisdiction to try for the offence of Piracy. That for the trial of Piracy a Special Commission must issue and a Court be specially constituted for the purpose; and that such Court is distinctly provided for by the Imperial Act.

2. That the Warrant was insufficient. It does not show upon the face facts which are essential, under the Treaty with the United States, to bring this matter into the Courts of this Province, or to create the special jurisdiction, which enables us to arrest parties under those charges. [Mr. Gray cited the case of Dillan, charged with an offence on the sea beyond Provincial jurisdiction who was arraigned before Judge Parker at the last circuit, and discharged. And Mr. Weldon cited the case of the brig Eliza, in '47.]

3. Not only is the Warrant insufficient on these grounds but on the face of it is bad, as charging two distinct offences triable before two different tribunals. There ought to be two Warrants.

Mr. Gray thought these objections fatal to any proceedings. Mr. Wetmore replied at some length, and read a large portion of the Provincial Act passed to give effect to the Extradition Treaty. He claimed that everything so far was regular, and that the Magistrate could not go back of the warrant, which was sufficient authority for him. The Magistrate told Mr. Gray that there was probably something in his argument; but that at present he would proceed with the preliminary examination, and if he decided before the case was through that he had no jurisdiction he would give the prisoners the benefit of it.

The following Witnesses were then examined:

EVIDENCE OF CAPTAIN WILLETT.

Captain Isaac Willett sworn: Am a citizen of the United States—live in Brooklyn—a seaman for 30 years—know the *Chesapeake*, owned by H. B. Cromwell, also a citizen of U. S.—was master of her in December, and had been for 17 months—she was re-built in New York about 3 years ago—previous to that she was called the *Totten*—[Mr. Wetmore asked where she was registered? Both Messrs. Gray and Weldon objected to the question as improper. The Magistrate agreed with them.] During the 17 months the vessel plied between New York and Portland—she had a coasting licence. [Mr. Gray objected to any evidence respecting contents of this licence; objection sustained.] He had the paper until it was taken away from him on board the ship. On the 4th and 5th Dec. I had charge of the *Chesapeake*, then lying in North River taking in cargo