limited to the end that the proceedings may be viewed and considered, "and to the end that the sufficiency thereof, to warrant such confinement or restraint, may be determined."

Its purposes had been completely fulfilled, and, in addition to that, it had been adjudged that the writs ought never to have been issued—the provincial Habeas Corpus Act expressly excepting a court of record out of its provisions, and the inferior court in question being a court of record—and the prisoner had been sent back to be dealt with in the inferior court in the very manner which is now complained of—to be dealt with in that court just as if the proceedings there had not been wrongly interfered with and interrupted.

It is easy to understand why the authority of the magistrate should be superseded when a conviction has been brought up on a writ of certiorari, to a higher court, with a view to questioning it—the superior court having jurisdiction in the matter—and when the conviction has been filed in that court, and why it should continue superseded until the proper process or order of the superior court convey authority to the inferior court to proceed; but none of those obvious reasons are applicable to such a case as this; and it is to be observed that its having that effect is conditional upon the proper recognizances having been entered into, when that is necessary. But, however that may be, the enactment allowing an appeal to this Court provides that "no conviction shall be set aside or any new trial directed although it appears . . . . that something not according to law was done at the trial . . . unless, in the opinion of the Court of Appeal, some substantial wrong or miscarriage was thereby occasioned on the trial . . .;" and that provision plainly covers this case, the pronouncement of judgment by the trial Judge being, of course, part of the trial.

If effect were given to this application, what would be the practical result? The judgment in question would be set aside, but only to be followed by a regular return of the papers to the Clerk of the Peace, with a procedendo or otherwise to the inferior court, and a repronouncing of the sentence—a mere waste of energy and expense to no sort of practical use. That is quite without any of the purposes of allowing an appeal to this Court.

I have assumed, without considering the point, that there is a right to appeal to this Court, although there was no application either orally or in writing to the Court "during