

D. B. Sinclair, for the prisoners.  
F. P. Brennan, for the Crown.

ORDE, J., in a written judgment, said that two informations were laid against Antonio Arsino before two Justices of the Peace at Caledonia, in the county of Haldimand: one, that he did with menaces demand from one Frank Thomas the sum of \$150 with intent to steal the same, contrary to sec. 452 of the Criminal Code; the other, that he did forcibly seize or confine or imprison Frank Thomas, contrary to sec. 297 of the Code. At the same time, two similar informations were laid against Guiso Santarpio. By consent, the charges against the two accused were dealt with together, and the evidence taken as if in one case. The magistrates committed Arsino for trial upon both charges, and also committed Santarpio for trial on the charge of demanding money with menaces, but dismissed the charge against Santarpio of kidnapping.

The prisoners now moved to quash the warrants of commitment, on the ground that there was no evidence to justify them.

The Court will review the decision of a magistrate upon a preliminary inquiry in a criminal matter, and will order the discharge of the prisoner if there does not appear to be sufficient cause for his detention: *Regina v. Mosier* (1867), 4 P.R. 64.

The depositions, though meagre in the matter of detail, disclosed certain facts.

Upon the charge against Arsino of demanding money with menaces, Thomas swore that Arsino told him he wanted \$500 and held a long knife over his head. That alone disposed of the motion upon that charge.

Upon the charge of kidnapping, the story was somewhat involved, but there was evidence to indicate that Thomas was taken to Hagersville against his will, apparently as the result of the threats made against him. While the evidence on this point, as it stood on paper, was not very convincing, the learned Judge was unable to say that there was no evidence upon which a jury, seeing and hearing the witnesses, might not find a verdict of "guilty."

Then as to the charge against Santarpio of demanding money with menaces: he was with Arsino when the latter demanded the money with the knife in his hand. Santarpio had called for Thomas and got him into his motor-car, and they were afterwards joined by Arsino. The whole evidence led to the conclusion that this was all the result of previous arrangement between Arsino and Santarpio. Counsel for Santarpio relied upon the statement, made by Thomas upon cross-examination, that San-