rences from facts. Unless it can be said there is nothing for a jury—the facts being undisputed, and the only thing in dispute being the law, the prisoner should be committed: (per Draper, C. J., *In re Anderson*, 11 U. C. C. P. 60.) If the judge were, as an ordinary magistrate, investigating a case of our own, and would commit for trial here, he should commit for that in the foreign country: (per Ritchie, J., in the case of the Chesapeake.)

The judge, &c., having heard and considered the evidence, must determine if it be "sufficient to sustain the charge." We have no right to assume that he will not be fairly tried in the United States, nor can we be influenced by any consideration of what may be properly or improperly done with him after the trial. The treaty is based on the assumption that each country should be trusted with the trial of offences committed within its jurisdiction. If that confidence be shaken so as to weaken the efficiency of the treaty, the remedy is to abrogate it: (per Robinson, C. J., in *re Anderson*, 20 U. C. Q. B. 173; per Hagarty, J., in *re Burley*, p. 50; see also Vattel, c. 2, c. 6, s. 76.)

The word "sufficient," as here used, means sufficient not only in point of law, but in point of fact; or, in other words, sufficient to put the party accused on his trial for the offence of which he is accused.

The judge of the sufficiency is the judge who heard the evidence, and apparently he alone. From his decision as to the sufficiency or insufficiency of the evidence no appeal is given. He exercises a statutory power, and the statute which creates the power provides for no review of his decision on the evidence, except by the government, to whom he is required to certify the evidence, or a copy of it. Can there be an appeal from his decision to any intermediate tribunal not mentioned in the treaty or statutes passed to give effect to it? The late Mr. Justice Sullivan (*In re Kermott*, 1 U. C. Cham. Rep. 253) assumed that there was such an appeal on habeas corpus to a judge in Chambers, and discharged the prisoner. The late Sir James B. Macaulay, (*In re Tubbee*, 1 U. C. Pr. Rep. 98) expressed strong views in favor of such an appeal, though the prisoner before him was discharged on wholly different grounds. The late Sir John B. Robinson, in Anderson's case, 20 U.C. Q.B. 166, though expressing great doubts as to any such power, did in fact entertain an appeal from the decision of a magistrate on a question as to the sufficiency of evidence. Chief Justice Draper, in Anderson's case, as reported in 11 U. C. C. P. 59, said there is some difficulty in affirming that this court can review the decision of a judge or justice under the treaty. In the same case, at p. 67, Mr. Justice Hagarty was more decided, and said, "I do not understand that either of the Superior Courts can assume the task of examining the depositions, and judge them sufficient to sustain the charge." To the same effect is the language of Mr. Justice Ritchie, in the case of the Chesapeake. So Mr. Justice Crompton, in *Reg. v. Tivnan*, 10 L. T. N. S. 501, said, "all I think we have to consider is whether there was *any* evidence on which the magistrate could reasonably, in the exercise of his discretion, commit these prisoners to gaol for the purpose of being delivered up to the United States authorities. * * * We are not the proper parties to judge of the evidence, but we have the power of saying that there is *no* evidence before him on which he ought legally to come to the conclusion to commit them to gaol. * * * It is not for us to weigh the effect of evidence which is for the magistrate, &c." So far, the weight of authority is decidedly against the power to review the decision of the magistrate on the evidence, and such we should unhesitatingly declare to be the law as now established, were it not for the recently expressed opinion of Chief Justice Richards (*In re Burley*, 1 U. C. L. J. N.S. 46). The opinion of that learned judge is entitled to great weight, and the expression of it in the case to which we have just referred leaves the decided cases on this point in any thing but a satisfactory state.

The magistrates having found the evidence sufficient to commit the party for trial, is, according to the treaty, "to certify the *same*," and, according to our act, "to certify a copy of the same," to the proper executive authority, that a warrant may issue for the surrender of the fugitive. There must of course be a commitment by the magistrate of the fugitive. The warrant of commitment, if only till "discharged by due course of law," without saying "until surrendered, &c.," would be bad: (*In re Anderson*, 11 U. C. C. P. 1.) It need not set out the evidence (*In re Burley*); and for the reasons that we have already mentioned, need not recite a prior charge in the