

No evidence was taken before the magistrate from which one may judge of the nature of the defendants' acts which are said to have constituted the offence charged; but it is admitted by counsel for the Crown that whatever offence the accused may have been guilty of, it was not kidnapping; he contends that they are guilty of another and different offence, that of abduction.

Having regard to the expedition with which the proceedings were taken and carried to completion—to say the least of it, they were hasty—and having in mind the gavity of the offence charged, and the Crown's admission, it is not easy to believe that these men, unrepresented by counsel, and it may be, so far as the record shews, without any advice, could have appreciated the character of the charge preferred against them when they pleaded "guilty," if they did so plead. To uphold a conviction under such circumstances, and thus leave the accused subject to the consequences of such conviction, would be contrary to what a sense of justice demands. For my part I am not prepared to take the responsibility of following such a course.

The conviction is quashed, but without costs; and there will be an order of protection to the magistrate; leaving it to the prosecution to proceed on such other charge, if any, as may be advised.

MIDDLETON, J.

OCTOBER 19TH, 1914.

RE MORGAN v. BILLINGS.

RE MARTIN v. BILLINGS.

*Division Court—Motion for Prohibition — Actions to Recover Fees Paid to Clerk of Municipal Corporation—Resolution of Council—Ultra Vires—Question of Law—Jurisdiction of Judge in Division Court—Right to Review Decision.*

Motions by the defendant in two complaints pending in the First Division Court in the County of Carleton for orders of prohibition.

The motions were heard in the Weekly Court at Ottawa.

R. A. Pringle, K.C., for the defendant.

W. L. Scott, for the plaintiffs.

MIDDLETON, J.:—The defendant is the Clerk of the Corporation of the Township of Gloucester. As such Clerk, he collected