objection to this Warrant. This is the final commitment of the accused to Jail, there to remain until delivered pursuant to the Requisition. But after examination of the witnesses, and before the committal, there was something to be done, an all important duty to be discharged, which I cannot discover from the Warrant or from any of the proceedings before me, and I can look to nothing else to have been performed, and which, if done, I think should clearly, unequivocally and unambiguously appear on the face of Warrant, which it manifestly does not; and that is, that after hearing and considering the evidence, the Justice determined and adjudicated that he deemed the same sufficient according to the laws of this Province to justify the apprehension and committal for trial of the prisoners, if the crime had been committed within this Province. Without such an adjudication, the Warrant of Commitment could not issue, and without such an adjudication appearing on the face of it when issued, I think the Warrant bad, there being without it a want of jurisdiction shown to issue the Warrant, or perhaps rather a want of jurisdiction to sustain it; and this view is confirmed by reference to 8 and 9 Vic., before referred to, for even there where a statutary form is given to be used by the Police Magistrate of the Metropolis, the adjudication is set forth. The form given is thus: "Be it remembered that on &c., A. B. &c., is brought before me, J. P. &c., and is charged before me for that he, the said A. B., on &c., within the Jurisdiction of the United States of America did (here state the offence); and forasmuch as it has been shewn to me upon such evidence as by Law is sufficient to justify the commital to Jail of the said A. B. pursuant to an Act passed in the 7th year of the Reign of Her Majesty entituled &c., that the said A. B. is guilty of the said offence, this is threfore to command, &c." The cases to be found bearing on this point lay down the principle very clearly, some of which I will quote. *In Re* Peerless 1 Q. B. 152. This was a Warrant setting forth a conviction—Denman C. J. says "The Magistrate having no jurisdiction except by the express Statutary enactment, the offence is not here described sufficiently to shew jurisdiction." Per Littledale J. "I do not say that this may not be a good conviction upon which a good Warrant might be framed, but I think this Warrant clearly bad for not shewing jurisdiction." "In what way it is that Justices have jurisdiction, ought to appear by the Warrant, I found myself on Lord Tenderden's Judgment in Kite & Lane's case," 1 P., and C. 101. And Coldridge J. says: "By a legal Warrant, I mean a Warrant which upon the face of it shows a right to detain, and that right cannot exist unless there be jurisdiction in the Magistrates. To deny that this must appear upon the face of the proceedings is to call in question one of the most important rules of the Criminal Law." In Kite & Lane's Case referred to, Abbot C. J. says: "It is a first principle as to all acts done by Magistrates that the jurisdiction should appear on the face of their proceedings." And Best J. says: "It is a settled principle that penal Statutes, and such as create new jurisdiction shall receive a strict construction. Nash's case 4th B. and A. 295, was the case of a warrant issued under the 57th George 3d, Cap. 87 Sec. 6, by which Act, in case any person, found on board a vessel liable to forfeiture under 45 George 3, Cap. 121, be fit and able to serve His Majesty in his naval service, he shall upon such proof as by the said Act of the 45th year aforesaid, is required, be committed by such Justice to prison to answer such information and abide such judgment &c. Abbot C. J. says:—"This Act of Parliament of the 57th year of George 3, Cap. 87, is one highly beneficial in preventing frauds upon the revenue, but at the same time, inasmuch as it trenches very strongly on the liberty of the subject, we must take care that its previsions are strictly pursued." And again: "these circumstances stated in the introductory part of this return seem to me quite sufficient to warrant this commitment, and if it had been stated upon due proof of the matters before mentioned the prisoner was committed, I should have thought it sufficient." And Per Holroyd, J: "The power of the Magistrate to commit depends on the proof before him, and the Rule is, that where a limited authority is given it must be shown to have been strictly pursued." And in Christy *vs* Unwin, 11 Ad. and El. 377, where the validity of an order made by the Lord Chancellor under 6th, George 4th, Chap. 16, Sec. 18, was questioned, it was held that the order must shew on the face of it whatever was necessary to give jurisdiction. And Coleridge, J. says:

"We cannot intend for or against the order but must decide according to the words. However high the authority may be where a Statutary power is exercised, the person who acts must take care to bring himself within the terms of the Statute whether the order be made by the Lord Chancellor or by a Justice of the Peace. The facts which give the authority must be stated."

This case is, I believe, the first under the Treaty and Act of Parliament that has called for judicial investigation in this Province, and as points of a novel, certainly of a peculiar, and I may say of a delicate, certainly of an important character have been raised, I have endeavored to give the case the most careful consideration, and in view of the possibility of this decision becoming the subject of discussion in other quarters, I have, to prevent misapprehension, felt it right, though at the risk of subjecting myself to the charge of unnecessary prolixity, to place on the face of my judgment, at length, the documents and facts necessary to enable all interested in the matter who have not access to the papers before me, or who may not have heard the arguments, correctly to understand the points raised and the reasons for the conclusions at which I have arrived.

In the prompt manner in which His Excellency the Lieut. Governor granted his warrant, and in