trate for the district of Iberville, and to Pierre Bourgeois.

The evidence at the trial showed that Pierre Bourgeois made a complaint under oath, before the district magistrate, that Louis Molleur fils, President of the St. John's Bank, had made a false return under oath to the Government of the subscribed and paid-up stock of the bank. The return was required under 34 Vict., cap. 5, s. 62 (Canada.) It was stated in Court that the information sworn to by Bourgeois was in the same form and followed the indictment upon which Honoré Cotté was tried and convicted.—*Queen* v. *Cotté*, 22 L. C. Jurist, 141.

In the present proceeding, the petitioner complained that he had been arrested under the warrant of the magistrate, Charles Loupret, and he prayed that the enquiry before the magistrate might be prevented and the proceedings quashed for divers reasons. 1. Because the informant, Pierre Bourgeois, had no interest to make the complaint and was an insolvent. 2. No offence was shown in the information. 3. The affidavit of Bourgeois was in a language which he did not understand, namely, in English. 4. Because there was enmity and an expression of opinion on the part of the magistrate against Molleur *fils*, for which the magistrate was recusable as his judge.

The case was tried on Tuesday and Wednesday, and after the argument of counsel the presiding judge gave his judgment.

Per Curiam. Pierre Bourgeois, as a citizen, though not a shareholder of the bank, and though insolvent, owing the bank a large sum of money, was quite competent to make the charge, which was a public offence. There appears to be no ambiguity in the statement. It is precise and directly charges the falsity of the return made. Then, as to the informality in the affidavit being drawn in a language which was unknown to Bourgeois, this is an irregularity which the Court does not approve of, and here there does not appear any necessity for the use of the English language, but the evidence now given before me satisfies me that Bourgeois perfectly understood the terms of the affidavit and had it explained and read over to him word for word. This is sworn to by the magistrate as well as by Bourgeois. The magistrate was notified by the affidavit that a misdemeanor had been committed, and issued his warrant to arrest the accused in the usual course. The information under oath was only an accusation, but once made the duty of the magistrate was to proceed with the enquiry. He had no choice. His work was not a judgment. It was only an enquiry. It was not judicial; it was only ministerial, even though the accused were held for the action of the grand jury.

As to the criticisms of the counsel for the petitioner, that on the affidavit now under consideration, the deponent, Pierre Bourgeois, could not be tried for perjury, the question now before this court is not whether there could be a charge of perjury made against Bourgeois, but whether this court is justified in interfering in the proceedings of the magistrate performing an ordinary function under 32-33 Vic., cap. 30. The court would simply call attention to s. 11 of that Act, that no objection of form or substance is to prevail.

The most serious question is the charge against the magistrate that he had enmity, had expressed opinions against the petitioner, and could not do him justice. It was before this court that the magistrate under oath denied the existence of any such feeling. The rules of our civil code of procedure were referred to by counsel, as to recusation of a judge. These are not binding on the court in this case apart from their wisdom, but it is significant that, as a rule for the judges of this court, where there is no written proof of the ground of recusation, the declaration of the judge is conclusive, and the recusing party cannot produce oral testimony nor even obtain delay to produce written evidence: C.C.P. 186. The chief reason, says M. Rodier, Questions sur L'Ordonnance of 1667, Tit. 24, article 6, is to show respect to the judiciary. Our code C.C.P. 176, further says that the accusation against the judge for verbal or written threats was limited to the time since the suit began or within the last six months before the recusation. It is surprising how little has been produced in the way of evidence of expressions of feeling towards the petitioner by the magistrate. There is nothing this court can