taken before the magistrate. He represented in his petition that the proof showed that the offence was committed in the United States, and therefore he was not subject to the jurisdiction of the Court here. The ground, therefore, of this application on the part of Narbonne to be liberated, was that the offence alleged to have been committed was not committed in Lower Canada or in the District of Montreal, but as a matter of fact was committed in New York. The petitioner went further, and said that the depositions taken before the magistrate established this fact, and for the purpose of bringing up these depositions, to show that he had been committed for trial on an offence committed in a foreign State, he applied for a certiorari. The only question to be considered now was whether this Court had a right to issue a certiorari with that view. It had been contended on the part of the Crown that this Court had no such right; that once a man had been committed for trial by a magistrate, this Court had no right to issue a certiorari to bring up depositions, together with a writ of habeas corpus, to determine whether the commitment was well founded. The majority of the Court were of opinion that in the particular case before it, a writ of certiorari could not be granted. He was of an entirely different opinion. There was something doubtful in the terms of the commitment, and he considered it not only the right but the duty of the Court to order a certiorari, to see whether the prisoner had been committed for an offence committed in a foreign country. It was a matter of considerable importance, that a man should not be detained five or six months in jail for an offence committed in a foreign State. He could appeal to the practice. Mr. Justice Aylwin had ordered the papers to be brought up in a case, for the purpose of ascertaining whether it was an offence under the Mutiny Act. Hurd, on Habeas Corpus, laid down the general principle, and the same doctrine was to be found in Chitty. It was said it could only be done in extradition cases, but his Honor considered that the same permission should be granted here, and that the proceeding was one which resulted from the necessity of the case.

Ramsay, J. We are asked to grant a writ of *habeas corpus*, for the purpose of setting the prisoner at liberty, he being now detained in gaol on a sufficient warrant. We are asked also to issue a writ of *certiorari* to bring up the preliminary examination, in order that we may look at the depositions, for the purpose of assuring ourselves that the committing magistrate had sufficient evidence before him to commit. It is perfectly evident that if we were to accede to such a request, we should be not only introducing a novel practice, but we should be establishing a precedent of a most inconvenient character. We should be converting this court into a court of appeals from the decisions of justices, under the Act respecting the duties of justices out of session, in relation to persons charged with indictable offences. We have put it to the learned counsel for the petitioner to produce any authority in support of his application, and he appears to have utterly failed to find anything of the sort. The whole proceedings are so familiar that it seems somewhat strange that we should have had to entertain the proposition. They will be found described in 1 Chitty, p. 128. The only cases where I have ever heard of the judges looking, on *habeas corpus*, at the evidence, for the purpose of enlarging a prisoner, are those of extradition. But that is a very special jurisdiction; the commitment is not for trial, but for removal out of the jurisdiction of the court and out of the protection of the laws of England. There is, therefore, room for a distinction, although personally I am of opinion that it was a very unwise one to make. However, the law has now made a kind of provision for this sort of examination, and the result has been as might have been expected—we have had the most incongruous proceedings. We have had one judge of this court reviewing, on *habeas corpus*, the commitment of another, to see whether the latter had jurisdiction, and a judge of the Superior Court performing a similar operation. Perhaps this is not the necessary result of the law as it stands, but it is a good illustration of the danger of courts allowing themselves to be wheedled into novel practices by abstract arguments.

What the law wills is this, that if a justice is convinced that an offence within the limits of his jurisdiction has been committed, he may, by a lawful warrant, hold the accused, either by bail or imprisonment, to stand his trial.

Sir A. A. Dorion, C. J. We do not say that