

## The Legal News.

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### THE QUEEN v. SCOTT.

The Supreme Court of Canada, on the 25th of April, reversed the decision of the Court of the Queen's Bench for the Province of Quebec, in the above case, which was one that elicited considerable discussion, and on which the Provincial Court was divided. The question was whether the stealing of an unstamped promissory note from the maker is larceny. Scott stole a note from the possession of the drawers, stamped and endorsed it, and then tried to collect it. The Court of Queen's Bench (22 June, 1877) Chief Justice Dorion and Judge Sanborn dissenting, held that this was larceny, but the Supreme Court has reversed the judgment, and sustained the opinion expressed by the Chief Justice and Mr. Justice Sanborn, that a note unstamped, being null, has no value, and is not the subject of larceny. This judgment seems to be in accordance with the English decisions in which the same point has been considered.

### EXTRADITION.

It is satisfactory to find the Court of Appeals of Kentucky taking the correct view of the Extradition Treaty between Great Britain and the United States, in relation to the much controverted question of the right to try surrendered fugitives for offences other than those for which their extradition was claimed. In the case of the *Commonwealth v. Hawes*, decided by the Court of Appeals on the 17th April, the surrender of Hawes had been claimed by the United States Government, while the accused was residing in London, Ontario, and he was given up by the Canadian authorities, under the treaty of 1842, to answer three charges of forgery. One of the indictments for forgery was not pressed, and the prisoner was acquitted on the others. But the prisoner was still detained in custody, and finally a day was fixed for his trial on an indictment for embezzlement. Hawes then presented an affidavit to the Court, setting out all the facts attending his surrender, and moved to set aside the returns of the Sheriff

on the various bench-warrants under which he had been arrested, and to release him from custody. The Court having, in effect, sustained this motion, the Commonwealth appealed. The judgment appealed from held that the tenth article of the Treaty of 1842 impliedly prohibited the government of the United States, and the Commonwealth of Kentucky from proceeding to try Hawes for any other offence than one of those for which he had been extradited, without first affording him an opportunity to return to Canada, and that he could not lawfully be held in custody to answer a charge for which he could not be put upon trial. This decision, which embodies the point contended for by Great Britain in the recent diplomatic correspondence on the subject, has been sustained by the Court of Appeals of the State of Kentucky. It was because a different view was entertained by other courts of the Republic, that the English government declined to give up Winslow. We quote the concluding remarks of Chief Justice Lindsay, in which he replies to one of the strongest arguments adduced by those who hold a contrary opinion:

"Hawes was surrendered to the authorities of Kentucky to be tried upon three several indictments for forgery. The Canadian authorities were of opinion that the evidences of his criminality were sufficient to justify his commitment for trial on said three charges. One of the charges the Commonwealth voluntarily abandoned. He was tried upon the remaining two, and found not guilty in each case by the jury, and now stands acquitted of the crimes for which he was extradited.

"It is true he was in court, and in the actual custody of the officers of the law when it was demanded that he should be compelled to plead to the indictment for embezzlement. But the specific purposes for which the protection of the British laws had been withdrawn from him had been fully accomplished, and he claimed that, in view of that fact, the period of his extradition had been determined; that his further detention was not only unauthorized, but in violation of the stipulations of the treaty under which he was surrendered, and that the Commonwealth could not take advantage of the custody in which he was then wrongfully held, to try and punish him for a non-extraditable offense.