

general rule such permission ought not to be granted; and in this case it was refused.

*R. McKay*, for plaintiff. *H. E. Rose*, for defendant.

From: Meredith, C.J.C.P.]

[Dec. 12, 1905.]

REX v. WALTON.

*Arrest in foreign country for theft in Canada—Forcibly bringing back to Canada without extradition proceedings—Right to question habeas corpus—Remands—Verbal remands—Justice sitting for police magistrate—Jurisdiction.*

The prisoner who had committed a number of thefts in Canada and had escaped to the United States was, on a telegram from Canada, arrested there Nov. 10, 1905, and, as the prisoner alleged, forcibly brought back to Canada against his will, and without the intervention of the Extradition Act. The Crown, however, alleged that the prisoner came back voluntarily. On Nov. 11, he was brought before a justice of the peace of the city where the offences were committed for preliminary investigation. The prisoner was remanded to the 13th, and on that date was remanded by one of the police magistrates of the city to the 17th. On the 13th a writ of habeas corpus was issued for the discharge of the prisoner on the ground of the illegality of his detention.

*Held*, that the circumstances under which the prisoner was brought back to Canada would not be enquired into on return to such writ, that being a matter to be raised by the government of the country whose laws are alleged to have been violated, or at the suit of the party injured against the person who had committed the alleged trespass against him.

Objection, also, having been taken to the validity of the proceedings before, and the remand made by, the said justice, for want of jurisdiction, in that he appeared to have acted in the absence of only one of the police magistrates of the city whereas there being two such magistrates, and on other grounds,

*Held*, that it was not necessary to decide this point, for, on the prisoner appearing before one of such magistrates on the 13th, the magistrate had before him a valid information previously taken by him, on which a remand was noted, and though, not stated by whom, its validity would not be questioned, so that there was then a lawful detention; but even if the detention prior to Nov. 13, was illegal, the prisoner being then before the magistrate on a valid information, he was then lawfully in custody.