

I have considered the objection, that having ordered the issue of the *Habeas corpus* I have no power to adopt the other means now sought for the discharge of the prisoner; but no case has been cited or argument advanced in favor of that proposition; and I can see no reason why if one alternative course has failed through the negligence or improper conduct of the Sheriff the other should not be adopted.

I have therefore decided to make an order for the discharge of the prisoner.

IN THE SUPREME COURT OF CANADA.

REGINA *VERSUS* ROBERT E. SPROULE.

Take notice that this Honorable Court will be moved on Wednesday the first day of September, A. D. 1886, at the hour of eleven o'clock in the forenoon at the Supreme Court **10** House at the City of Ottawa by Mr. Christopher Robinson of Counsel for the Crown that the Writ of *Habeas Corpus* to J. E. McMillan Esquire the Sheriff for Vancouver Island directing him to produce the body of Robert Evan Sproule before Mr. Justice Henry at Ottawa and all subsequent proceedings including any order of the Honorable Mr. Justice Henry for the discharge of the prisoner be quashed and set aside upon the grounds amongst others that such writ, proceedings and order were issued and granted improvidently, and are in abuse of the process and constitution of the Supreme Court and of the powers of the Judges thereof.

Dated the seventh day of August, A.D. 1886.

ALEX. E. B. DAVIE,
Attorney-General for British Columbia. **20**

To, the above named Robert E. Sproule, and to Theodore Davie Esq. his Counsel and Solicitor.

NOTE.—Upon the hearing of the above motion the following documents will be read.

1. The affidavits and documents on file in the Supreme Court of Canada which were read or produced before Mr. Justice Henry on shewing cause against the Rule *Nisi* for the Writ of *Habeas Corpus*.

2. The Writ of *Habeas Corpus* with the Sheriff's return indorsed.

3. The two affidavits of Paulus Emilins Irving sworn respectively the 24th day of July A.D. 1886 and the 7th day of August A.D. 1886—copies of which are served herewith.

4. The affidavit of Theodore Davie on file in the Supreme Court of British Columbia sworn on the 15th day of February A.D. 1886 and a copy of which is served herewith. **30**

ALEX. E. B. DAVIE.

IN THE SUPREME COURT OF CANADA.

REGINA *VERSUS* ROBERT EVAN SPROULE.

I PAULUS EMILINS IRVING of the City of Victoria, British Columbia, Deputy to the Attorney-General for British Columbia, make oath and say as follows:

1. I did, on Saturday the 7th day of August A. D. 1886, serve Robert E. Sproule personally with the annexed notice of motion by handing to and leaving with the said Robert