

Province of Ontario.**COURT OF APPEAL.**

Full Court.]

REX v. WISHART.

[Dec. 31, 1910.

Criminal law—Fugitive Offenders Act—Arrest in Ontario warrant issued in Ireland—Endorsing warrant—Commitment of accused to await return—Police magistrate.

Appeal by defendant from an order of MEREDITH, C.J.C.P., who refused to discharge defendant from custody upon a warrant issued in Ireland and not endorsed as required by the Fugitive Offenders Act, R.S.C. 1906, c. 154, s. 8. The prisoner was brought upon habeas corpus, and remanded to the custody of the jailer at Toronto. He had been apprehended and brought before the police magistrate of the city under a provincial warrant, but when the warrant was produced it was not endorsed by the Governor-General or a judge as provided by the Act. Upon the argument for the discharge, the Chief Justice endorsed the warrant and confirmed the commitment. It was contended that the police magistrate could not proceed finally to deal with the case and commit the prisoner, the warrant not having been endorsed.

Held, 1. The requisition for the endorsement of the warrant was enacted with an object beyond that of merely rendering it available for the apprehension of the accused without any other warrant. The endorsement is a requirement for the protection of the accused against frivolous or vexatious proceedings. The expression "endorsed warrant" has greater significance than as a mere term of distinction between it and another warrant.

2. It is safer in dealing with the matter involving restraint of liberty to adhere to the primary meaning of the language used, in the absence of a context manifestly controlling it, and pointing clearly to a different meaning.

Appeal allowed and defendant discharged.

O'Connor, for defendant. Cartwright, K.C., for the Crown.

Full Court.]

REX v. SAM SING.

[Dec. 31, 1910.

Criminal law—Carnal knowledge of girl by prisoner on his own premises.

Case stated by the judge of the County Court of Carleton,