

"forgery," according to the law of the United States, but only "obtaining money by false pretences" according to Canadian law; in such a case he thinks it clear that though the accused might be tried in the States for forgery, he could not be extradited, because the crime is not forgery according to Canadian law. But in the case he puts we venture to think that the accused might very properly be extradited on the ground that "obtaining money by false pretences" is one of the crimes included in the first schedule, and it seems to us to be a quite immaterial circumstance that the offence is designated by another name in the United States. But assuming that "obtaining money by false pretences" were not included in the first schedule, then it seems to be reasonably clear that it could not be made an extraditable offence by calling it "forgery," or by any other name mentioned in the schedule. The Act is not to be construed as though the crimes enumerated were mere names; on the contrary, it must be construed on the principle that the names of the crimes specified indicate the commission of certain specific acts; and if it is established that the act has been committed which any of the specified crimes indicate, then, we submit, it becomes immaterial to our courts by what specific name the offence, which the commission of such act constitutes, is known in the foreign country.

Burton, J.A., also expresses the opinion that where a case is "forgery" according to Canadian law, but not according to the law of the States, the prosecution of the person for "forgery" in the States must necessarily fail; but it does not follow necessarily that he must be prosecuted for "forgery" in the States; what is to hinder his being prosecuted for whatever the law of the States may call the offence which he has committed? Of course every prosecution is liable to fail, but we do not see that the possible failure of the prosecution can be any good ground for refusing the extradition where a *prima facie* case is made out.

As the law stands at present, if a court of first instance were to adopt the view of the minority of the Court of Appeal it would prevail, and could only be reversed by an appeal to the Supreme Court, that is, assuming that the judges of the Court of Appeal remain of their present opinion. This is an unfortunate state of things, it seems to us, and may lead to a failure of justice.