here the magistrate would not have been justified in discharging the accused. It is not the province of the Police Magistrate to determine the questions of fact, if he finds sufficient evidence to justify a commitment. Whether there is a probability of the prisoner being eventually convicted of the offence, after a trial, is not a question for his or for my consideration.

I shall now consider the legal objections to these proceedings.

As to the first, that the Police Magistrate had no jurisdiction, by reason of the original arrest and warrant being irregular and defective, I see nothing in the objection. Assuming that the initiatory proceedings were irregular and unjustifiable, in my judgment it is a matter of no moment and beside the present enquiry, whether the prisoner originally was arrested upon a void warrant, or without complaint or warrant, or whether, as contended, the warrant was for a charge of robbery of $20,000 and it turned out to be $20,000 in United States Bonds; the material question is, being in custody, whether a sufficient case was made out to justify his commitment for robbery, with a view to his extradition. It is obvious that offenders flying from the United States into this Province in order to elude arrest, would, when discovered here, in many cases, escape in consequence of the impossibility of obtaining the necessary proof at the moment, to authorise a warrant for their apprehension, unless some peace officer, satisfied of the guilt of a party, would assume the responsibility of his detention, until the regular proof was forthcoming. And it would be discreditable to our laws to hold that because in a case of this nature the original arrest was technically irregular (after the case was heard and the prisoner committed) the whole proceedings should be declared to be *coram non judice*, and the prisoner discharged.

Then, as to the objection that the depositions taken in New York, on the 30th May, were not receivable in evidence under the provisions of the 3rd sec. of our act, I had on the argument some doubts as to their admissibility, but upon consideration have come to the conclusion that the objection is untenable. The question resolves itself into this, whether when an offender is arrested in this Province for a crime committed in the United States for the purpose of extradition, can depositions taken in the United States after his arrest here and upon which a warrant issued against him in the United States upon the same charge, be received as evidence against the accused, upon the hearing of the case before the Police Magistrate.

It is admitted that the proceedings against the prisoner, may be originated in this country. It cannot be doubted that before or after his arrest here, a warrant may be issued in the United States founded upon depositions taken there. On the argument no reason or authority was adduced against using depositions taken in the United States during the pendency of the proceedings against the prisoner before the Police Magistrate, except by a very critical reading of the 3rd sec. of our statute, to shew that the framer of that section intended that before its provisions should apply, the depositions should be made, and a warrant issue in the United States, before the arrest of the accused in this country; but in construing and applying that section we must look at the spirit of the provision, not the mere letter, and in the language of our Interpretation Act, Con. Stat. of Canada, we must give it "such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the act and of such provision or enactment, according to their true intent, meaning and spirit." What the section evidently intended was, that any depositions made in the United States, before proper authority and upon which a warrant issued for the arrest of the accused, should be received as evidence of his criminality in the hearing before the Police Magistrate. The main object contemplated by the enactment, was to sanction the use of depositions and to avoid the necessity of bringing the deponents here. The referring to or connecting the depositions with the warrant in this section, was, in my opinion, for the purpose of ensuring that they should be such depositions as would be taken before competent authority, and in relation to the particular crime and the offence specified in the foreign warrant, and that the time when the warrant issued was immaterial. The value of the objection is apparent, when we consider that if the Police Magistrate had given effect to the objection, when taken before him by the prisoner's counsel, all that was necessary to be done was to issue a new warrant and begin the proceedings all new, and so get rid of the technicality—and if I were now to discharge the prisoner on this objection, practically I should do so upon the ground that the Police Magistrate did not go through the farce of abandoning the proceedings *pro forma*, saying to the prisoner, I release you for the purpose of re-arresting you, in order to read the depositions taken in New York against you. To discharge the prisoner from custody on such grounds, while it would be contrary to the spirit and intention of the Treaty and the provisions of our statute, would be a scandal and reproach to the administration of the law.

It was contended very strongly and zealously by Dr. McMichael, that the case was one of great hardship against the prisoner: that the true object of his extradition was for some purpose other than his trial for the robbery. I see no ground for apprehending that such is the case and I have not the slightest doubt that the prisoner will be fairly dealt with by the Government of the United States, as well as the courts of law there, and that nothing will be done against the prisoner contrary to the spirit and object of the Treaty—nor am I pressed with any serious doubts as to the propriety of the view taken of the case by the Police Magistrate. The prisoner's conduct from the time he offered the securities for sale, until and after his arrest, without explanation, is quite inconsistent with innocence, and indicates forcibly guilty knowledge. It may turn out, as suggested, that he is only a receiver of the stolen property, but the facts disclosed would be evidence to some extent to go to a jury against the prisoner, for a taking by him. I am therefore of opinion that I should not discharge the prisoner, but that he should be remanded, to be dealt with as His Excellency the Governor-General, may be advised.

Prisoner remanded.