

to, with intent to defraud, as set forth in the information filed with me, and I must therefore order him to be held for such crimes so committed, and issue my warrant for his committal to the common gaol of the county of Elgin (being the nearest convenient prison) there to remain until surrendered to the State of Kansas, or to the United States of America, or discharged according to law.

And here, as my further duty under the 12th Section of the Extradition Act is, I inform the prisoner that he will not be surrendered until after the expiration of fifteen days, and that he has the right to apply for a writ of *habeas corpus*.

Early Notes of Canadian Cases.

SUPREME COURT OF JUDICATURE FOR ONTARIO.

HIGH COURT OF JUSTICE.

Queen's Bench Division.

Full Ct.]

[Nov. 26.]

REGINA v. RAY.

Criminal law—Bigamy—Proof of first marriage.

Upon an indictment for bigamy, the first marriage must be strictly proved as a marriage *de jure*.

Evidence of a confession by the prisoner of his first marriage, is not evidence upon which he can be convicted.

J. R. Cartwright, Q.C., for the Crown.

Lyman Lee, for the prisoner.

REGINA v. DAY.

[Nov. 26]

Criminal law—Statements of prisoner to detectives—Admissibility of evidence.

During the trial of the prisoner for murder, questions arose as to the admissibility in evidence of statements made by the prisoner to certain detectives, in answer to questions put to him by the detectives, the prisoner being at the time in the custody of the detectives.

Held, upon a case reserved, that the statements were admissible in evidence.

J. R. Cartwright, Q.C., for the Crown.

Lennan for the prisoner.

Div'l Ct.]

[Nov. 17.]

MARTIN v. McMULLEN.

Guaranty—Construction of—Limited suretyship for a floating balance—Payment of part of debt—Right to rank upon insolvent estate of principal debtor.

The plaintiff's testator gave the defendants a guaranty in the following terms: "In consideration of the goods sold by you on credit to M., and of any further goods which you may sell to M. upon credit during the next twelve months from date, I hereby undertake to guarantee you against all loss in respect of such goods so sold or to be sold, provided I shall not be called on in any event to pay a greater amount than \$2,500."

The whole debt owing to the defendants by M., at the expiration of the period limited by the guaranty was \$5,556. M. made an assignment for the benefit of his creditors. The plaintiff paid the defendants \$2,500, and claimed to rank upon the estate of M. in respect thereof.

Held, STREET, J., dissenting, that the guaranty was a limited suretyship for a floating balance, and was to be construed as applicable to a part only of the debt, co-extensive with the amount of the guaranty; and the plaintiff was entitled to a dividend from the estate of M. in respect of the \$2,500 paid.

Judgment of STREET, J., 19 O.R. 230, reversed.

McCarthy, Q.C., for the plaintiff.

Gibbons, Q.C., for the defendants.

Div'l Ct.]

[Nov. 17]

MECHIAM v. HORNE.

Canada Temperance Act—Incorporation into, of ss. 62, 64, 66, 67, of R.S.C., c. 178—Distress, dispensing with—Imprisonment for costs of commitment and conveying to gaol—Warrant of commitment—Excess of jurisdiction—Police Magistrate—Summary conviction drawn up after Act ceased to be in force—Nullity—Conviction not quashed—Evidence of sufficient distress—Nonsuit.

The defendant was the salaried police magistrate for the County of Ontario, in which the Canada Temperance Act was in force prior to the 11th May, 1889, when the Order-in-Council declaring it in force was revoked.