

Province of Ontario.

COURT OF APPEAL.

Full Court.]

RE HARSHA.

[Jan. 22.]

Extradition—Forgery—Evidence of Commission—Identification of document—Irregularities in proceedings before extradition judge—Discharge of prisoner—Fresh proceedings—Proof of foreign law.

The prisoner was committed by a judge for extradition to a foreign state for the offence of forging tickets of admission to an entertainment. The evidence before the judge consisted of a certified copy of the indictment of the prisoner in the foreign state, the information of a police detective taken before the judge himself, and five depositions or affidavits sworn in the foreign state, consisting in great part merely of hearsay statements made by other persons to the deponents, not in the presence of the prisoner. These depositions proved some relevant facts, and raised a strong suspicion against the prisoner of having forged something, of having committed an offence which, if committed in Canada, would be forgery at common law, as well as under the Criminal Code, ss. 419, 421, 423; but neither a genuine ticket nor one of those with the forging of which the prisoner was charged was produced to any one of the deponents on making his deposition, or was verified or identified by any of them, or otherwise produced or identified before the extradition judge.

Held, MEREDITH, J.A., dissenting, that there was no proper evidence of the commission of the alleged offence; and the prisoner was entitled to his discharge upon habeas corpus.

Decision of TEETZEL, J., reversed.

Semble, per OSLER, J.A., that there were grave irregularities in the proceedings before the extradition judge; his warrant for the apprehension of the accused was issued without any information or complaint taken in this country, or a foreign warrant duly authenticated, having been before him; the prisoner was arrested on the strength of a telegram, and the depositions on which he was committed were not forthcoming pending their authentication until the day upon which the order was made remanding him for extradition; and s. 6 (2) of the Extradition Act could not have been complied with.