

15 Federal Rep. 664; *re* Charleston, 34 Federal Report, 531.

Moore on Extradition, says, page 525: "It has been held that the rule that the evidence must be such as to justify commitment for trial at the place where the fugitive is found, if the offence had there been committed, applies not only to the admissibility and the amount of the evidence required for that purpose in the particular place, but also to the definition of the offence."

The opinion of Sir Edward Clarke upon the duties of the extradition commissioner as to committal or discharge might perhaps be cited with advantage, not that I have any doubts as to the course that I have to follow, but to show how the path of the Extradition Commissioner is narrow. And this also answers the contention of the learned counsel for the defence that the accused were entitled to the benefit of any reasonable doubt, if any existed.

Clarke, on Extradition, p. 247:—"It must be remembered that the Magistrate investigating a case of demanded extradition is not quite in the same position as if he were deciding on a charge of crime committed within his own jurisdiction. In the latter case he has full discretion, he may, and often does, discharge a prisoner because, although there is *prima facie* evidence of guilt, the circumstances are so obscure, the intent so doubtful, the testimony so conflicting, that he thinks a jury would not be likely to convict. But in a case of extradition he cannot consider these matters. If he finds sufficient evidence of guilt to justify a commitment, the question of a probability of a conviction is not one for his consideration."

See *ex parte* Feinberg, Can. Crim. Cas., Vol. 4, p. 270 (Wurtele, J.).

On the whole, my conclusion is that the allegation of the conspiracy to defraud the United States as being in existence between Carter and the accused, on or about July 1st, 1897, is proven to the hilt; that Carter, a public officer and agent and trustee of the United States, was guilty and