

counsel for the accused for his defence, a committal subsequently made will not be set aside on habeas corpus, on the ground that the judge did not formally ask the accused if he wished to call any witnesses, as required by s. 686 of the Criminal Code.

3. Notwithstanding the wording of s. 16 of the Extradition Act, affidavits sworn to in the foreign state may be received and acted on in extradition proceedings, following the practice adopted in *Counhaye Case*, L.R. 8 Q.B. 410, and in many Canadian cases.

4. When a charge of larceny is made in respect of a sum of money alleged to have been received by the accused from the prosecutor to be accounted for, and to have been fraudulently converted by the accused to his own use, sufficient *prima facie* evidence of the payment by cheque of the money to the accused is not given without the production of the cheque or the receipt given by the accused, in the absence of any deposition of an official of the bank in which the cheque was drawn.

*Reg. v. Burke*, 6 M.R. 121, and *Re Harsha* (No. 1), 10 Can. Cr. Cas. 433, follo. 1.

The evidence contained in the affidavits being in this respect and otherwise insufficient to establish a *prima facie* case against the accused, he was held entitled to his discharge on habeas corpus.

*Phillips and Chandler*, for State of Washington. *Hagel*, K.C., and *Blackwood*, for prisoner.

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Metcalf, J.]                      ANDREW v. KILGOUR.                      [March 7.

*Animal feræ nature—Raccoon—Liability of owner for damages done by.*

A raccoon is an animal *feræ nature* and a person who keeps one in a town is liable in damages for any injury inflicted by it on a neighbour upon escaping from captivity although the animal has been kept in the defendant's house for a long time, and was supposed to have been tamed.

Hale's Pleas of the Crown, vol. 1, p. 430, and *Filburn v. People's Palace, etc.*, L.R. 25 Q.B.D. 258, followed.

*McLeod*, for plaintiff. *Bowen*, for defendant.

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Mathers, C.J.]                      COPELIN v. CAIRNS.                      [March 22.

*Practice—Security for costs—Application to set aside praecipe order for—King's Bench Act, rule 988.*

Rule 988 of the King's Bench Act, R.S.M. 1902, c. 40, does