

and ordering their liberation. The facts, which are not really in dispute, appear to be that the two respondents, Gaynor and Greene, had been in the employment of the Government of the United States of America, and have been charged with certain criminal offences in respect of certain transactions in the State of Georgia. While they were in Quebec, application was made to an officer called an Extradition Commissioner for their arrest in pursuance of the international extradition arrangements between Canada and the United States of America.

The application was made upon an information which (among other things) alleged that the respondents had been guilty of theft, and the Commissioner, Mr. Ulric Lafontaine, duly issued his warrant for the arrest of the alleged criminals. They were accordingly arrested, and upon their arrest, they applied to a learned Judge, Mr. Justice Andrews, for a writ of *habeas corpus*.

Now the only question which the learned Judge had to determine was whether the accused were at the time of the issue of the writ in question in lawful custody. If they were, he had no jurisdiction to release them, but was bound to remand them to custody, and, up to this point, it is difficult to see what ground could be even suggested for their release.

The offence of theft was an offence which made the offender liable to extradition.

The Commissioner was invested by the Extradition Act with all the powers of a Judge in that behalf, and under the Commissioner's warrant the officer having the custody of the accused was to receive and keep them till a particular date (the 27th of May, 1902), and then bring them before the Commissioner to be further dealt with according to law (R.S.C., c. 142).

It is difficult to understand what is the supposed unlawfulness of the custody, and it is only upon the supposed unlawfulness of the custody that any application for discharge could be founded.