

THE
ONTARIO WEEKLY REPORTER

VOL. XIII.

TORONTO, APRIL 29, 1909.

No. 17

RIDDELL, J.

APRIL 19TH, 1909.

CHAMBERS.

REX v. GRAF.

Criminal Law—Selling Obscene Books and Pictures—Conviction by Magistrate—Summary Trial—Evidence of Sale Taking Place in Canada—Admission of Accused—Absence of Denial—Evidence of Confession—Reception—Police Officers—Threats or Inducements—Absence of Corroboration—Sufficiency of Confession—Charge not Reduced to Writing—Procedure—Criminal Code—Information—Prejudice of Magistrate—Looking at Pictures before Trial—Defect in Conviction—Absence of Scienter—Amendment—Same Defect in Warrant of Commitment—Habeas Corpus—Motion for Discharge—Enlargement for Purpose of Substituting Warrant in Proper Form.

Application by defendant, upon the return of a habeas corpus and certiorari in aid, for his discharge from custody under a commitment issued pursuant to a conviction made by one of the police magistrates for the city of Toronto, for selling obscene books and pictures, etc.

Eric N. Armour, for the defendant.

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

RIDDELL, J.:—Martin T. Graf, alias M. Munroe, who describes himself as of Buffalo, New York, is in the central prison under sentence for selling books, pictures, and photographs which his counsel states are of so obscene, filthy, and disgusting a nature, that for a magistrate to look at them would necessarily prejudice him against the pris-