

standing that the person charged had been unlawfully apprehended; and, unless the qualification "subject to the provisions of this Act" makes it a condition precedent to the exercise by the magistrate of the jurisdiction conferred by the Act that the warrant mentioned in sec. 8 has been indorsed as provided by that section, the detention of the prisoner is not unlawful.

In my opinion, the qualification has no such effect. The purpose of it is manifestly to make the exercise of the jurisdiction and powers conferred by the section subject to what is provided in sec. 12, viz., that there is a warrant such as is mentioned in sec. 8; that it is duly authenticated; that the offence is one to which the Act applies; and that the evidence is of the character mentioned in sec. 12.

The provision of sec. 12 is not, "if the warrant be indorsed and duly authenticated," but "if the indorsed warrant . . . is duly authenticated," and the reference to it as an "indorsed warrant" is, I think, merely for the purpose of distinguishing it from the provisional warrant mentioned in secs. 9 and 10.

The result is that, in my opinion, the prisoner is lawfully detained, and he must be remanded.

It may be well, however, to say that a departure from the procedure prescribed by the Act may render the person who apprehends under a warrant which has not been indorsed, if it is not a provisional warrant, liable to an action for taking an illegal arrest, and it would be well, I think, if the attention of the police authorities were called to this.

DIVISIONAL COURT.

NOVEMBER 21ST, 1910.

*RE HENDERSON ROLLER BEARINGS LIMITED.

* This case will be reported in the Ontario Law Reports.

Assignments and Preferences—Assignment for Benefit of Creditors—Goods Seized by Sheriff but not Sold—Interpleader—Claim of Assignee—Rights of Execution Creditors—Assignments and Preferences Act, 10 Edw. VII. ch. 64, sec. 14—Creditors' Relief Act, 9 Edw. VII. ch. 48, sec. 6, sub-sec. 4—Priorities—Lien of Interpleading Creditors.

Appeal by N. L. Martin, the claimant, as assignee for the benefit of creditors, from the order of CLUTE, J., ante 162.