

Com. Pleas Div.]

NOTES OF CANADIAN CASES.

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and thus disqualified by interest from sitting, the defendant had the right to put the questions, and they were therefore improperly disallowed; and that the magistrate also should have given evidence when called on.

The defendant, therefore, having been debarred the right of making a full defence as allowed by sec. 30 of 32 & 33 Vict. c. 3 (D.), the conviction could not be sustained, and must be set aside.

The calling of a magistrate sitting in a case as a witness, and his being sworn, does not of itself disqualify him from further acting in the case.

Aylesworth, for the applicant.

Delamere, and *E. F. B. Johnson*, contra.

RE WEIR.

Extradition—Depositions—Authentication of admissibility—Evidence—Sufficiency of—Weight of.

In extradition proceedings the information, warrant and depositions were certified under the hand and seal of a justice of the peace of Oscodo township, in the county of Josio, in the State of Michigan. There was also a certificate under the hand of the clerk of the county of Josio, and clerk of the Circuit Court for the said county, and the official seal of the said Circuit Court certifying that the said justice of the peace was, at the time of signing his certificate, a duly elected and qualified justice of the peace in the active discharge of the duties of the said office, and that his official seals were entitled to full credit.

Held, that the documents were sufficiently authenticated.

Held, also, that the depositions and statements admissible in evidence are not restricted to those made in respect of the charge upon which the original warrant was issued.

Held, also, that the depositions, etc., before the county judge, before whom the extradition proceedings were had, disclosed sufficient evidence to warrant the defendant being placed on his trial for murder, caused, as was alleged, by the defendant having feloniously ravished the deceased while in such a state of health as to hasten her death.

Per CAMERON, J.—The Divisional Court cannot review the decision of the judicial officer having jurisdiction to hear extradition cases upon the weight of evidence merely; and, *per* ROSE, J., it was not necessary to express any opinion on this point.

THORNE V. WILLIAMS.

Ejectment—Deed, Alteration of—Equitable title—Adding party.

In an action to recover possession of land it appeared that one of the deeds required in proving plaintiff's title was altered by the grantor's agent under the authority of a letter from the grantor.

Held, that the deed was void, but that the plaintiff was entitled to recover on his equitable title. Leave was granted to add the owner of the legal estate as a party plaintiff.

J. E. Robertson, for plaintiff.

McCulloch, for defendants.

Rose, J.]

O'RORKE V. CAMPBELL.

Illegitimate child—Custody and care of.

The father of an illegitimate child has the right to the custody and care of the child as against a stranger or person other than the mother. That the mother has the right as against the father, and father has the right as against the grandfather and grandmother.

Action for food, clothing, lodging and other necessities supplied by child's grandmother at mother's request.

Defence: That defendant demanded from plaintiff (the infant's maternal grandmother), and from the child's mother, the person of the infant, both of whom refused to comply. Averment that he is, and always has been, ready and willing to support the child and furnish it with food, etc.

Held (on demurrer), that the statement of defence furnished a good answer to the action.

J. H. Ferguson, for the demurrer.

Aylesworth, contra.