

DIARY FOR DECEMBER.

1. Mon..... Princess of Wales born, 1844.
2. Tues..... General Sessions and County Court Sittings for Trial in York.
4. Thur..... Chancellor, Division High Court of Justice sits.
6. Sat..... Michaelmas Term and High Court of Justice sitting ends.
7. Sun..... *2nd Sunday in Advent.* Sir W. Campbell, 8th C.J. of Q.B., 1895.
9. Tues..... General Sessions and County Court Sittings for Trial, except in York.
14. Sun..... *3rd Sunday in Advent.* Prince Albert died, 1861.
17. Wed..... First Lower Canadian Parliament met, 1792.
18. Thur..... Slavery abolished in the United States, 1862.
21. Sun..... *4th Sunday in Advent.* St. Thomas. Shortest day.
24. Wed..... Christmas Vacation begins.
25. Thur..... Christmas Day. Sir M. Hale died, 1676, æt. 67.
26. Fri..... St. Stephen.
27. Sat..... J. G. Sprague, 3rd Chan., 1869.
28. Sun..... *1st Sunday after Christmas.* Innocents' Day.
30. Tues..... Holt, C.J., born, 1642.

Reports.

ONTARIO.

EXTRADITION CASE.

IN RE PARKER.

*Extradition—Discharge under Habeas Corpus
—Re-arrest—Jurisdiction of County Judge.*

The prisoner, accused of forgery in the United States, fled to Ontario, and was committed for extradition by a County judge, but was discharged on *habeas corpus* for a defect in the proceedings. On a new information before another County judge it was objected that the judge of another county had no jurisdiction and could not interfere, and that as the prisoner had already been discharged on another warrant, he could not be re-arrested.

Held, 1. That the jurisdiction of a County judge is under R.S.O., cap. 142, s. 5, co-extensive with that of a judge of the Superior Court.

2. That as the County judge (before whom the prisoner was lately brought) was acting under the Extradition Act he was not barred by a previous discharge under a *habeas corpus*.

[St. Thomas, Aug. 28, 1890.]

In this case the prisoner was a fugitive from justice from the State of Kansas, the charge against him being that of forgery. He was found in the county of Middlesex, and was committed for extradition by the Junior Judge of that county; but, on account of some defect in the proceedings (see 19 Ont. Rep. 612), he was discharged upon *habeas corpus*. A new information was then formulated upon the same facts and submitted to the Senior and Junior Judges of the County of Middlesex, who, however, declined to issue another warrant, thinking they were barred by the provisions of the *habeas corpus* Act, 31 Car., cap. 2. The same information was subsequently produced before the

judge of the county of Elgin, and a warrant applied for, which was granted.

On the prisoner being brought before the judge of the county of Elgin the same charge as had previously been made was investigated upon fresh evidence, and the defect in the former evidence supplied. Objection was taken on behalf of the prisoner to the jurisdiction of the County judge, on the ground that the case belonged to the county of Middlesex, in which the prisoner was found, and that he had already been charged with the same crime upon the same facts, with the exception that the promissory note, the alleged forged instrument, was now produced; and, amongst a number of other grounds, it was urged that under the *habeas corpus* Act a man could not be arrested after discharge thereunder.

McKillop for the State of Kansas.

R. M. Meredith for the prisoner.

HUGHES, Co. J.:—

The extradition judge is the only authority in this province to inaugurate proceedings under the treaty. His acts are ancillary to the proper and legal exercise of jurisdiction over the accused, and the offences alleged against him by the foreign tribunal alone competent to deal with him; so that whatever acts, whether judicial or magisterial here are necessary, are ancillary to and in aid of the court in the country where the alleged offence was committed, and whence the accused has fled, for without his intervention the foreign tribunal would be shorn of its power to do justice in the case.

In view of the objection to my jurisdiction in this matter, I must observe: (1) That under the fifth section of the Act it is co-extensive with that of the judges of the superior courts of and limited only by the bounds of the Province—and not by those of the county of Elgin, and every county judge has, for the purposes of the Act, all powers and jurisdiction of any judge or magistrate of the Province. (2) That it is not a bar to my acting in the case that the prisoner has been discharged by *habeas corpus* since I issued the warrant against him under the Extradition Act.

I am unable to suppose that if this had been an accusation of murder, committed in the State of Kansas, instead of forgery, the provisions of the treaty would be set aside or governed or controlled by our local or domestic laws, affecting the liberty of the subject, merely because