

**THE EXTRADITION ACT.**

The judgment of the Court of Appeal *In re Murphy*, 22 A.R. 386, though affirming the judgment of the [Common Pleas Divisional Court, nevertheless discloses the fact that the members of the court are divided in opinion on one important point arising in the construction of the Extradition Act.

Two of the judges (Hagarty, C.J., and MacLennan, J.A.), agreeing with the court appealed from, are of opinion that it is unnecessary to show in extradition proceedings instituted by the United States authorities that the prisoner is liable to conviction for the crime alleged according to the law of the United States; whereas Burton and Osler, J.J.A., consider that it must be made out that the prisoner has committed an act which is a crime according to the law of the United States, and which would also be an indictable offence of the same name if committed here. The latter judges were in favour of discharging the prisoner on the ground that the crime alleged was not shown to be forgery according to the law of the United States; and Burton, J.A., was of opinion that, even if it were, it was not forgery according to the law of Canada, and on that ground also the prisoner was entitled to be discharged.

As the learned Chief Justice of Ontario points out, "The high contracting parties treat such crimes as murder, forgery, rape, larceny, etc., as crimes well known to both, and especially as between nations using the same language, and laws based on generally similar principles." At the same time, it cannot be supposed that the crimes specified in the Act were intended to have a fluctuating meaning, and it appears to us that in the construction of the Act technical words used therein can receive no other construction than that which they bear according to the law of this country.

In the interpretation clause of the Act, R.S.C., c. 142, s. 2 (b), we find that "the expression 'extradition crime' may mean any crime which, if committed in Canada or within Canadian jurisdiction, would be one of the crimes described in the first schedule to this Act; and in the application of this Act to the case of any extradition arrangement means any crime described in such arrangement, whether comprised in such schedule or not." The expression "extradition arrangement" is by the previous subsection defined to mean an extradition treaty. We take the mean-