

RIDDELL, J.

JULY 5TH, 1907.

CHAMBERS.

RE BARTELS.

Extradition—Habeas Corpus—Motion for Discharge—Escape of Prisoner from Custody of Sheriff while Motion being Heard—High Contempt and Crime—Motion Retained Pending Re-arrest and Proceedings against Prisoner for Escape.

Motion by Herman Bartels senior, upon the return of a habeas corpus, for an order for his discharge from custody under a warrant for his extradition to the State of New York to answer a charge of perjury.

H. H. Dewart, K.C., and N. Sommerville, for Bartels.

T. D. Cowper, Welland, for the State of New York.

RIDDELL, J.:—Bartels, a very wealthy brewer of the State of New York, was, in the Supreme Court at Auburn in that State, in May, 1905, convicted of an attempt to commit arson in respect of a brewery or malt house with intent to defraud the insurance companies. Sentence being deferred, he was admitted to bail in the sum of \$15,000, and escaped. His bail being forfeited and an action brought upon the bail bonds and verdict given against the defendants, the sureties, their attorney settled the action by paying \$6,000. At the time it was expressly stipulated that this was simply a settlement of the bail bond, the Board of Supervisors having resolved that the criminal proceedings were in no way to be interfered with. This was some time in or after October, 1906. In the meantime, in May, 1906, an indictment had been found against Bartels in the same Court charging him with perjury, alleged to have been committed by him upon his trial for attempt to commit arson.

Bartels was in the province of Ontario at least part of the time. In May, 1906, a bench warrant was issued by the proper officer of the said Court for the arrest of Bartels with a direction to bring him before the Court upon the indictment for perjury.

He was arrested on or about 1st May, 1907, at Niagara Falls, Ontario, by the chief of police, and, after proceedings