

The manner of indorsing the warrant is provided for by sec. 21, which is as follows: "21. An indorsement of a warrant in pursuance of this Act shall be signed by the authority indorsing the same, and shall authorise all or any of the persons named in the indorsement and of the persons to whom the warrant was originally directed and also every constable to execute the warrant within Canada by apprehending the person named in it and bringing him before a magistrate in Canada, whether he is the magistrate named in the indorsement or some other."

A writ of habeas corpus and certiorari in aid having been issued and returned, and it appearing from the return that the prisoner was detained under the authority of the warrant of the Police Magistrate, the prisoner moved for his discharge, on the ground that his detention is unlawful, because: (1) the warrant for his apprehension not having been indorsed pursuant to sec. 8, his arrest was unlawful; (2) it is a condition precedent to the exercise of the jurisdiction conferred by sec. 12 that the warrant shall be indorsed pursuant to sec. 8, and, not having been so indorsed, the Police Magistrate had no jurisdiction to enter upon the inquiry mentioned in sec. 12 or to commit the prisoner.

T. J. W. O'Connor, for the prisoner.

J. R. Cartwright, K.C., for the Crown.

MEREDITH, C.J.:—It is clear that, had the prisoner been charged with an offence against the criminal law of Canada and been committed for trial for the offence, the fact that he had been apprehended without lawful authority, or even that he had been unlawfully brought back to Canada from a foreign country, would afford no ground for his discharge from custody: *Rex v. Whitesides*, 8 O. L. R. 622, and cases there cited.

I see no reason why the rule enunciated and applied in these cases should not obtain where proceedings are taken under the Fugitive Offenders Act.

Section 11 provides that "a fugitive when apprehended shall be brought before a magistrate, who, subject to the provisions of this Act, shall hear the case in the same manner and have the same jurisdiction and powers as nearly as may be, including the power to remand and admit to bail, as if the fugitive was charged with an offence committed within his jurisdiction."

Now, it is clear from the cases that have been referred to that a magistrate would have jurisdiction to commit for trial a person brought before him charged with an indictable offence, notwith-