

*IN RE* EXTRADITION OF LUDWIG.

*Circuit Court, S. D. New York.*

September 19, 1887.

EXTRADITION—ADJOURNMENT OF HEARING.

It is within the discretion of the commissioner to adjourn the hearing of extradition proceedings on motion of the sovereignty making the demand for the accused, and the prisoner is not entitled to be discharged from custody on *habeas corpus* on the ground that the adjournment is unreasonably long, unless it is made to appear that the commissioner has abused his discretion.

*On Habeas Corpus.*

*Robert Waite*, for Ludwig.

*Solomon & Dulon*, for the German government.

LACOMBE, J. The first question raised in this case is whether the adjournment of the hearing granted by the commissioner was unreasonable. That his power to grant adjournments at the request of either party is unquestionable was held in *Re Macdonnell*, 11 Blatchf. 100. It is said in that case that “the commissioner must exercise a just and reasonable

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discretion on that subject," and that it is only when such discretion is abused that the courts will afford relief. While the adjournment in the case at bar was undoubtedly extremely liberal, I am not prepared to say that it was unreasonable, especially in view of what the papers before the commissioner showed as to the character of the evidence which might be expected on the adjourned day.

It is unnecessary to consider the other points raised upon the argument, as the first one is controlling of this application. The prisoner may be remanded to the custody of the marshal till the hearing is closed, without prejudice to a renewal of the application for discharge, should the German government not close its case on September 27th.