does not amount to a quashing of the conviction. *Hunter* v. *Gilkison*, 7 O.R. 735.

To support a plea of *autrefois convict* the accused must show that the offence for which he is on trial is the same as that for which he was convicted, and the plea will not be allowed merely on the ground that the second offence *might* have been proved instead of the first on the trial of the first information. *The King* v. *Mitchell*, 19 Can. Cr. Cas. 113, 24 O.L.R. 324 (a summary conviction matter).

In *R.* v. *Weiss and Williams* (No. 2), 22 Can. Cr. Cas. 42, 13 D.L.R. 632, the accused were charged before a police magistrate and consented to summary trial. They were convicted of cheating at playing a game with dice, contrary to sec. 442 of the Code. Certiorari proceedings were taken, and the conviction was quashed by Mr. Justice Beck, upon the ground that there was not sufficient evidence on which the magistrate could properly convict. Five new informations were then laid before the same magistrate against both defendants; one for an attempt to commit the offence for which they had been convicted, and others against each defendant separately for conspiring with the other in the one case to cheat (sec. 573), and in the other case to defraud (sec. 444.) The defendants were brought before the same police magistrate and by the agreement of counsel for the Crown and for the defendants, the evidence taken on the former hearing was treated as having been repeated. No additional evidence was given. Counsel for the accused raised objection to their being again proceeded against on any of the charges on the ground that, having once been convicted of the offence of cheating (sec. 422) and having succeeded in having that conviction quashed, they were entitled to the benefit of a plea of *autrefois convict* or *autrefois acquit*. The magistrate, however, committed for trial on all of these new charges, An application for writs of habeas corpus to review the warrants of committal was dismissed by Beck, J. *R.* v. *Weiss and Williams* (No. 1), 21 Can. Cr. Cas. 438, 13 D.L.R. 166.

Mr. Justice Beck said (21 Can. Cr. Cas. at 440): "There is, of course, no doubt that the applicants on the charge of cheating under sec. 442 might have been convicted of an attempt to commit that offence had the evidence established an attempt (C.C., sec. 949) and, therefore, so long as the conviction for the actual cheating remained in force a plea of *autrefois convict* would have been a complete defence to the charge of an attempt. (C.C., sec. 907.) So, too, if they had been acquitted on the charge, inasmuch as they might have been convicted of an attempt, the plea of *autrefois acquit* would have been a good plea to a subsequent charge of an attempt: *Ib.*: *R.* v. *Cameron*, 4 Can. Cr. Cas, 385. The offence, however, of conspiracy was not one upon which they could have been convicted on the charge of cheating, without amendment, and I should think that the change of the