

Boyd, C., Street and Mabee, J.J.]

[Feb. 23.]

RE HARSHA.

Extradition—Habeas corpus—Re-arrest for same offence after discharge under—Res judicata—Affidavit on information and belief only.

On an application for a habeas corpus on the grounds (1) that the prisoner was arrested a second time for the same offence after his release on habeas corpus. (2) That the matter was res judicata. (3) That the complaint against him was on information and belief only. (4) That no evidence was received by the judge, and (5) that neither information and complaint nor the warrant was transmitted to the Minister of Justice.

Held, that although the prisoner had been discharged from custody on the ground that there was no proper evidence of the commission of the alleged offence or identifying the alleged forged document he could be re-arrested when further and new evidence had been discovered and was forthcoming to supply the deficiencies.

That the doctrine of res judicata or of former jeopardy or of autrefois acquit was inapplicable to such an enquiry.

That 31 Charles II. c. 2, s. 6, does not apply to extradition proceedings.

That the affidavit upon which the arrest was made being on information and belief was sufficient.

That the other objections should not be investigated as the enquiry was still pending and was to be prosecuted before the judge.

Quære, whether the Divisional Court would have acted as on an appeal if objection had been taken.

J. B. McKenzie, for the application. J. W. Curry, K.C., contra.

Falconbridge, C.J.K.B., Street, J., Clute, J.]

[Feb. 24.]

LOVELL v. LOVELL.

Husband and wife—Alimony—Wife leaving husband—Justification—Cruelty—Apprehension of violence.

Where a husband's persistent course of harsh conduct towards his wife created mental distress sufficient to impair her health, and did in fact injure it appreciably during the married life together, and where his language of threat and menace and