

ACQUITTAL—QUASHING ACQUITTAL—COURT IMPROPERLY CONSTITUTED—“NEMO DEBET BIS VEXARI PRO EADEM CAUSA.”

*The King v. Simpson* (1914) 1 K.B. 66. In this case the defendants had been acquitted of an alleged breach of the Coal Mines Regulation Act, which provided that in respect of offences under the Act “a person employed in a mine . . . shall not except with the consent of both parties to the case, act as a member of the Court.” It appeared that one of the justices who tried the case was employed in a mine and sat without the consent of both parties, and that at the date of the trial the prosecutor was unaware of the disqualification. The object apparently of the motion was to enable the prosecutor to institute fresh proceedings, but the Divisional Court (Ridley, Scrutton, and Bailhache, JJ.) refused the application, holding that it is contrary to the usual practice of the court to quash an acquittal except perhaps where the proceedings can be said to be clearly *coram non judice*. In the present case the proceedings were voidable; but until voided, might have been enforced and the court was of the opinion that the defendants had therefore been in peril and that the maxim *nemo debet bis vexari pro eadem causa* was not to be lightly invaded and therefore the motion was refused.

EXTRADITION — HABEAS CORPUS — JURISDICTION — EVIDENCE — OMISSION TO PROVE ORDER IN COUNCIL.

*The King v. Governor of Brixton Prison* (1914), 1 K.B. 77. A police magistrate committed a fugitive criminal to prison with a view to his extradition to Italy. There was an order-in-council applying the Extradition Act, 1870 to Italy, but no formal proof of it was given, the magistrate being aware of its existence. The prisoner applied for discharge from custody on the ground that in the absence of proof of the order-in-council the magistrate had no jurisdiction to commit him; but the Divisional Court dismissed the motion, holding that the omission to give proof of the order-in-council, which contained nothing to assist the prisoner, did not invalidate the committal so as to entitle the prisoner to be discharged, as the order-in-council existed, and the magistrate had in fact jurisdiction to make the order.