

As to the appeal from a judgment on award on expropriation for railway purposes, see Part II. "Appeals under the Railway Act."

(c) From the judgment in any case of proceedings for or upon a writ of *habeas corpus*, *certiorari* or prohibition not arising out of a criminal charge.

HABEAS CORPUS.

No security for costs is required on an appeal in a matter of *habeas corpus*. Sec. 75. The first step in the appeal is the filing of the case, which must be done within 60 days from the pronouncing of the judgment appealed against. See *In re Smart*, 16 S. C. R. 396.

Under the rules of court hitherto in force the case on an appeal in a matter of *habeas corpus* did not require to be printed, and no factums were necessary. Under the new rules, however, owing to an obvious error in drafting, all the provisions as to printing and depositing factums apply to the appeal under sec. 39, and are made non-applicable to an appeal from the refusal of a judge in chambers to grant the writ under sec. 62. See Rules 64-67.

As a rule no costs are given on this appeal. *In re Johnson*, S. C. Dig. 389. But where the appeal was brought after the applicant for the writ was at large, it was dismissed with costs. *Fraser v. Tupper*, S. C. Dig. 383.

There is no appeal in any case of proceedings for or upon a writ of *habeas corpus* arising out of any claim for extradition made under any treaty. Sec. 36 (a). Where the prisoner in an extradition case sought to appeal from the judgment of the Court of Appeal for Ontario refusing to grant a writ of *habeas corpus* the Court refused to fix a day for hearing a motion to quash as the matter was *coram non judice*, and the motion unnecessary. *In re Lazier*, 29 S. C. R. 630.

The prisoner need not be in court on the hearing of the appeal unless the court so directs. Sec. 64. And the court or a judge may bail, discharge or commit him, direct him to be detained in custody or otherwise deal with him as any court, judge or justice of the peace having jurisdiction in any such matters in any province. Sec. 63.

The appeal in a *habeas corpus* matter shall be heard at an early day whether in or out of a session of the Court. Sec.