

moved by *certiorari* and a motion made to quash it, it is the duty of the Court to look at the evidence taken by the magistrate, even where the conviction is valid on its face, to see if there is any evidence whatever shewing an offence, and, if there is none, to quash the conviction as made without jurisdiction; but if there is any evidence at all, it is not the province of the Court to review it as upon an appeal.

Regina v. Coulson, 24 O. R. 246, not followed. *Regina v. Coulson*, 59.

Issue of Distress Warrant—Ministerial Act.—See PROHIBITION.

LANDLORD AND TENANT.

1. *Right to Distrain—Garnishment of Rent—Suspension of Right to Distrain—Apportionment of Rent*—R. S. O. ch. 143, secs. 2-6.]—A landlord's right to distrain is suspended as to that portion of the rent which has accrued up to the garnishment, by the service on the tenant, before such distress, of an order attaching the rent, and distress for such portion is wrongful. *Patterson v. King*, 56.

2. *Distress for Rent*—R. S. O. ch. 143, sec. 28, sub-sec. 3.]—A person who goes into actual occupation of premises, under a lease from the agent of a tenant, believing the former to have, but who has not, authority from his principal to let the premises, is in under the tenant within the meaning of sub-section 3 of section 28 of the Landlord and Tenant Act, R. S. O. ch. 143, and his goods are liable to distress by the superior landlord. *Farwell v. Jameson*, 141.

3. *Acceleration Clause—Expiry of Lease—Reduction of Rent—Application of Provisions of Old Lease.*]—A company were assignees of a lease in writing containing a provision for the acceleration of six months' rent in case the tenant became insolvent. Before the expiry of the lease an arrangement was made between the company and the landlord for a reduction of the rent after the expiry of the lease, nothing being said as to the other terms:—

Held, that the arrangement made imported the terms of the old lease, so far as applicable, including the acceleration clause. *Re Canada Coal Co., Dalton's Claim*, 151.

4. *Distress—Withdrawal—Arrangement with Tenant—Second Distress—Fraud*—58 Vict. ch. 26, sec. 4—*Construction of*.]—A landlord may lawfully distrain a second time for the same rent when the first distress is withdrawn by an arrangement for the benefit of the tenant and which arrangement is at an end at the time of the second distress.

Semble, when the withdrawal has been effected through the fraud of the tenant the landlord can again distrain.

[Section 4 of 58 Vict. ch. 26 (O.), the Landlord and Tenant Act, 1895, does not take away the common law right of distress, but merely renders it unnecessary that the relation of landlord and tenant should depend upon tenure or service or that a reversion should be necessary to the relation.

In any event the section is not retrospective. *Harpelle v. Carroll*, 240.

5. *Distress—Mortgaged Goods—Agreement between Bailiff and Tenant—Pound Breach*—2 Wm. & M.