not remember any case where the rule was applied under our system. Third, that the commitment is for $71 more than it ought to have been for. There might be a question if the commitment had been for an amount different from that specified in the judgment. But here the judgment is for the exact amount for which the commitment issued. The Court cannot say, on a petition for *habeas corpus*, that the judgment was wrong. Therefore we think this petition cannot be maintained upon any of the grounds urged in support of it.

Ramsay, J. This is an application for a writ of habeas corpus. The petitioner is held under *contrainte par corps* for failure to produce certain goods of which he had been established guardian. He contended that the *contrainte* was illegal, (1) Because he was not given the alternative to pay the value of the goods; (2) Because he was held for certain costs not ordered by the judgment.

In support of the petition it was said that by section 20, C. S. L. C., cap. 95, it was enacted that "when any person is confined or restrained of his liberty otherwise than for some criminal or supposed criminal matter" &c., he shall have a right to a writ of *habeas corpus;* and it was urged that this legislation gave a right to the writ when any one was restrained of his liberty in a civil suit, independently of the enactments of the Statute of Charles. The answer to this pretention is to be found in Sect. 25 of this Act, which declares that this shall not apply to any one "charged in debt or other action, or with process in any civil suit." Our Act is copied from 56 Geo. III, cap. 100. It would have been a strange innovation to have employed the writ of habeas corpus as a means of verifying the procedure of the civil courts. The question has been frequently decided by the courts here, as the error in the rubric "Habeas Corpus ad subjiciendum in civil matters" has served to mislead. See *Ex parte Whitfield*, 2 Rev. de Leg., p. 337. The principle of this rule is fully explained in a case decided by this Court, *Exp. Donaghue*, 9 L. C. R. p. 285, and in another case, in the Superior Court, of *Barber et al.* v. *O'Hara*, 8 L. C. R. p. 216. And even where there is excess of jurisdiction, the writ will not be granted unless it be a commitment of an inferior court, else we should have a judge in chambers deciding as to the extent of the jurisdiction of the superior courts of law. See *Leboeuf & Viaux*, S. C., 18 L. C. J. 214. On the other side we have a case *Exp. Crebassa*, 15 L. C. J., p. 331, where it is said that a judge in chambers discharged a prisoner confined on *contrainte* for *rebellion à justice;* and there is also a case of *Exp. Lemay* mentioned in a note, in which it is said a party was discharged by a judge in chambers because the amount of certain costs was not stated. If these cases are not misreported, they can hardly be received as authority against the cases on the other side, and the express terms of the statute, which are reproduced in arts. 1040 and 1052 C. C. P. I do not mean to say that there may not be cases in which the judgment pretended to justify the imprisonment, may not really support it, and in such a case a party may be discharged on *habeas.**

Nor can it be contended that the writ of *habeas corpus* can be used in any case to relieve one of imprisonment under the law. So even a person condemned by a court of law to an illegal imprisonment cannot be discharged on *habeas—Exp. Plante*, 6 L. C. R. p. 20. And we refused the writ when it appeared that a man had been sentenced to five years' imprisonment with solitary confinement. See also the case of O'Kane in 1875, where we intimated that there was probably excess of jurisdiction by a court of record. The remedy in these cases is by writ of error.

The writ must be refused.

Sir A. A. Dorion, C.J., remarked that the majority of the Court did not express the opinion in the present case that there can be no *habeas corpus* at all where the petitioner is restrained of his liberty under civil process.

Monk, J. I would not like to go quite as far as Mr. Justice Ramsay, who has a very decided opinion that in civil cases the *habeas corpus* cannot be made applicable. Cases might arise where a person might be detained in jail for years unless released on *habeas corpus*. But I

* Three cases were cited at the bar, *Exp. Cutler*, in which the writ was refused by the Chief Justice and Mr. Justice Cross. In the case of *Martin* there was no judgment ordering the imprisonment. 22 L. C. J. pp. 85 and 86. And in *Exp. Thompson*, Mr. Justice Cross refused the writ in chambers; ib. p. 89. See also *Exp. Healey*, decided by me in chambers; ib. 138.