without further notice to him, a warrant was issued by the police magistrate for his arrest, and he was arrested and incarcerated in the common gaol at Toronto. A writ of habeas corpus having been granted, a motion was made before me for his discharge on 26th April, 1907. The papers being on their face regular, I refused his discharge, reserving leave to move for a new writ upon the expiry of the 4 months from the day of sentence. Upon application made, I granted a writ on 25th June, and upon the return a motion was made for the discharge of the prisoner on 27th June.

It was objected that the second writ was irregular and should not have been granted, and Taylor v. Scott, 30 O. R. 475, was cited in support of that proposition. I do not agree. The ratio decidendi of Taylor v. Scott is that by R. S. O. 1897 ch. 83, sec. 6, an appeal lies to the Court of Appeal from the decision of a Judge before whom a person deprived of his liberty has been brought by habeas corpus remanding him (see p. 478), and therefore, in case such person does not appeal, the matter is res adjudicata. Whether the case of Taylor v. Scott was well decided, under the facts and circumstances of the case, is not for me to inquire—of course I should follow it were it in point. And whether R. S. O. 1897 ch. 83, sec. 6, prevails over sec. 121 of R. S. O. 1897 ch. 245, so that the imprisoned or the applicant here would have the absolute right to appeal to the Court of Appeal, or whether, if not, the fact that an appeal is given only if "the Attorney-General for Ontario certifies that he is of opinion that the point is of sufficient importance to justify the case being appealed," takes the case out of the rule in Taylor v. Scott, I do not stop to consider. That case dealt with a finding by a Judge that could be appealed; and it was held that the proper course for one to pursue, if dissatisfied with a decision adverse to him, is to appeal to the Court of Appeal, and not apply to another Judge, according to the practice of the common law, and that if he fails to take the appeal given him by the statute of 29 & 30 Vict. ch. 45, he must be bound by the judgment res adjudicata. Here, however, the former writ was granted before the expiration of the 4 months of imprisonment inflicted—the present writ after. There has been a change of circumstances, the former proceeding was premature, and there is no adjudication upon the matter now before the Court. The case is nearly like