

warrant; but, there being an offence proved, and a proper conviction for the offence, and absolutely no merits in the application, I exercise the power conferred on me by sec. 752 (now sec. 1120) of the Code, and direct that the prisoner be further detained under the present proceedings, and that the police magistrate before whom he was convicted do issue a proper warrant of commitment and lodge it with the gaoler of the central prison on or before the 1st day of November, 1901. . . .” An appeal was taken to the Court of Appeal, apparently without objection—Armour, C.J.O., MacLennan, Moss (now C.J.O.), and Lister, J.J.A. The appeal was dismissed. The only Judge in that Court who mentions the matter now under consideration is Armour, C.J.O., who (p. 276) says: “If a formal commitment were necessary, the learned Judge did right, there being a valid conviction, in allowing a formal commitment to be lodged.”

While I may not be technically bound by these judgments (upon questions of habeas corpus, it is a well known rule that each Court is accustomed, and indeed considers itself bound, to exercise jurisdiction according to its own view of the law:” per Channell, B., in *Re Timson*, L. R. 5 Ex. 256, at p. 261), I accept them as setting out the law accurately, expressing, as they do, my own opinion.

There are two matters upon which, in refusing the application, I would express my regret. The first is that apparently there is no provision for the costs of the Attorney-General or his representative. I have already in *Rex v. Leach*, 17 O. L. R. 643, at p. 672 (see ante 86), given my views as to this—views to which I adhere.

The second is that only two years’ imprisonment can be inflicted for this heinous offence. One who administers physical poison so as to inflict upon another grievous bodily harm is liable to 14 years’ imprisonment; one who administers mental and moral poison, and thereby inflicts grievous harm upon the mind and soul, even if this is not possibly, indeed probably, accompanied by bodily harm as well, is let off with two years—rather a reversal of the injunction not to fear them that kill the body and after that have no more that they can do.