plaintiff in particular. The leaving is, of itself, of little consequence, save as connected with the fraud: the reasons most material to be shewn are the reasons for belief in the intent to defraud, and, on reference to Mackenzie's affidavit, it will be found that these are wholly wanting, and the reasons there stated, only go to show that the defendant intended to leave, thereby allowing the assertion of intent to defraud wholly unsupported by special reasons.

"As I view the matter, the affidavit is insufficient in a material requirement; the deponent has not assumed the responsibility of swearing to particular reasons of intent to defraud, and on this point tenders no issue to be rebutted. Having failed to show sufficient reasons for the arrest, Shaw had no proof to make, and the burden was thrown upon Mackenzie, Powis & Co., to show a case for arrest, if this could be done outside of the affidavit, which affidavit had failed to do it. Had the affidavit contained these reasons, it would still have been the right of Shaw to have disproved them in this action, and it seems to me that he has proved an affirmative case sufficient to establish his good faith, even at the disadvantage of not being informed of the particulars he had to answer."

And on the 2nd point Mr. Justice Ramsay says in his judgment: "It is the first time I ever heard that it was an evidence of integrity to dispute the payment of an account that was due. It is frequently done by people otherwise respectable, but it is a *fraud*, nevertheless." And Mr. Justice Taschereau who delivered the judgment of the Supreme Court, in his reasons says:

"In fact, not only in this case, but also in their case against the appellant, and by the very terms of their own affidavit, upon which they arrested the appellant, it is clear and apparent that the respondents were and are under the impression that the fact alone of the departure of their debtor from the country was a sufficient ground to arrest him;" and after reviewing the facts concludes by saying that "Shaw's arrest was entirely unjustifiable, and that it is clearly established in the present case that the respondents had no reasonable and probable cause for issuing the writ of capias in question."

Now by referring to my notes (4 Legal News, p. 89), it will be seen that I gave a short statement of the facts of the case, and as in the opinion of the Supreme Court there was, *at the time of the arrest, "no misrepresentation, false excuse or precarious credit,"* and the only probable and reasonable cause Mr. Mackenzie had for believing that his debtor was leaving *with intent to defraud*, was the fact that Mr. Shaw had refused to make a settlement of an overdue debt and was about to depart for England, this was considered not to be a sufficient reasonable and probable cause.

3rd. As to the cases of *Desilets* v. *Gingras*, and *Reed* v. *Levi*, the counsel who argued the case, and some of the Judges who delivered judgments, relied on the decision of the Privy Council in the case of *Lambkin* v. *The South Eastern Railway Co.*, 5 App. Cas. 352, where it was held on appeal from a judgment of the Court of Queen's Bench, Province of Quebec, that "inasmuch as the damages awarded by the jury, were not of such an excessive character as to shew that the jury had been either influenced by improper motives or led into error, there ought to be a new trial." It may be that the motives of a Judge can never be said to be improper, and therefore it would perhaps have been better to say, as in the case of *Penn* v. *Bibly*, 15 L. T., N. S. 399, also relied on, to insert instead of "*influenced by improper motives*" the following, "had acted on a wrong principle."

Reference is then made to some decisions of the Court of Queen's Bench, which have been reversed, and the cases not yet reported.

In *Bulmer* v. *Dufresne* the judgment of the court below was not *reversed*. *Chevallier* v. *Cuvillier*, was argued last term, and judgment has not yet been delivered.

Connolly v. *Provincial Insurance Co.* is in the hands of the printer. This leaves *Fuller* v. *Ames* and *Reeves* v. *Geriken*, which will be published if the Judges direct them to be published.

Now, Sir, as I have already stated, I do not hope to give your readers in advance *short notes* of cases, which cannot be improved on when preparing a full report, but I do hope that they will not be *all* and *altogether defective*.

Yours truly,

G. D.