the order; that the defendant, according to the true construction of the 6th section, can appeal at once; that he may under that section apply to another Judge, or he may come to the court at once, but that he cannot do both. On the other hand it was contended that wherever authority is given to a judge at chambers, it is impliedly given subject to the exercise of it being reviewed by the court, and that the court out of which process issued had always a right by virtue of their general jurisdiction, to relieve the party against it, if they thought the judge had allowed the process to issue upon insufficient materials, or had exercised an improper discretion in doing so.

In giving the judgment of the court, Parke, B. says, "It is clear from the terms of this (6th) section that notwithstanding the judge's order to arrest, the court from which the process issued, upon an application to it, has a power to discharge; and we think there is nothing in the Act to take away the general control previously possessed by the court over a single judge, if we think the materials before the judge insufficient, or that he exercised an improper discretion acting in any matters pending in the court; and consequently where an application is made to us, we may interfere, either by virtue of our general jurisdiction, or that given by the statute; and further, the party arrested may, by the statute, use affidavits to contradict or explain those on which the order was granted, either by denying the intention to depart, or shewing that the debt was not due, a course which was not permitted by the old practice of the court; and those affidavits may be answered by the plaintiff on shewing cause. *In addition to this*, a right is given to the person arrested to take the opinion of another judge *as to the propriety of his discharge*, this opinion being again subject to be reviewed by the court above."

He proceeds to say: "Two questions here arise—first, whether, if the judge secondly applied to should differ from the first on the same state of facts, he has *power* or *right* to order the prisoner's discharge as upon an appeal to the court; and, secondly, whether, if it should appear on the fresh affidavits that the person arrested was about to quit England at the time the *affidavits* were made, though it is not clear that he was, or or even though it be shewn that he was not, when the *order* was made, the court ought to discharge him or his bail, or direct money deposited instead of bail to be refunded. *We are not all agreed upon the questions*, and it is not now necessary for us to decide them, though the points are of practical importance." With reference to the proceedings before Platt, B., the judgment proceeds: "After the defendant was arrested, he applied to my brother Platt to set aside the order to hold to bail, and all subsequent proceedings, upon his own affidavit and the affidavits of other persons as to his intention to remain in England. The learned judge refused to make the order. The affidavits did not disclose any new matter against the defendant. *In the form in which the summons was taken out*, my brother Platt was certainly right in not granting an order to the full extent asked, because the writ of *ca. sa.* certainly ought not to have been set aside. Whether he was right or not in refusing to *make an order to discharge only, on this summons*, is not material *now*, for we are all of opinion that we may consider that my brother Erle's order and the affidavit in support of it are before the court, and that under our *general* jurisdiction we have a power to give the defendant relief. We all think he was wrong in making the order to arrest upon such an affidavit. The order, therefore, having proceeded on insufficient grounds, we think that the defendant should be discharged out of custody, *and we may say nothing respecting the order of Baron Platt.*" The defect in the affidavit was that the plaintiff swore that he was informed and believed that the defendant was about to leave England without stating from whom the deponent obtained the information.

Talbot v. *Bulkeley*, 16 M. & W. 193, was before the court at the same time as *Graham* v. *Sandrinelli*. The rule was to shew cause why an order of Pollock, C.B., dated 11th August, 1846, should not be rescinded, and why the capias issued in pursuance thereof should not be set aside, and why the sum of £126 18s., deposited by the defendant with the Sheriff of Middlesex in lieu of special bail, should not be returned. The affidavit upon which the order for defendant's arrest had been made was objectionable upon the same ground as that in *Graham* v. *Sandrinelli*. After defendant's arrest he applied to the Chief Baron *for his discharge*, upon an affidavit negativing his intention to leave England. His Lordship refused to make any order, and thereupon the defendant lodged £126 18s. in lieu of special bail.

On the part of the plaintiff, in answer to the rule, it was sworn that on the 7th November, the deponent called at defendant's lodgings, and was informed by a female servant there that his goods had been distrained upon for rent on the 20th October, and that on that day he had given up his apartments, and left for the purpose of going to France, and had never been there since that time. It was contended upon this affidavit that it shewed sufficiently reasonable ground to apprehend that the defendant would go abroad and defeat the plaintiff of his debt if he should be relieved from the effect of the Lord Chief Baron's order, or indeed that he had already gone, and that, this being so, the court would not set the order aside, or direct a return of the deposit. It was contended in answer that the original affidavit upon which the arrest took place was clearly insufficient, and that therefore the question was, whether it sufficiently appeared that, *when the defendant was arrested*, he had any intention of going abroad, that at all events the question must be determined with reference to the period when the original order was confirmed by the Chief Baron on the 17th August, and that subsequent facts ought not to be taken into consideration except in so far as they might show that the defendant at that time intended to go abroad. In reply to this contention Rolfe, B., says:—"I very much doubt whether the question is whether he intended to go abroad at the time of the actual arrest. The Judge may issue a capias at any time during the progress *toties quoties*, and if the court be satisfied that the defendant *now* intends to go abroad, it would be