P. R. 67, and of Galt, C. J., in *Marsh* v. *Webb*, 15 P. R. 64, and of Ferguson, J., in *Macdonald* v. *Worthington*, 8 P. R. 554.

This rather respectable array of authorities it seems was all swept away, without even the stroke of a pen, by the Divisional Court of the Queen's Bench Division, (Armour, C. J., and Falconbridge, J., and Street, J.) in the unreported case of *Delap* v. *Charlebois*, before that Court on appeal from the Master in Chambers, in Oct., 1896, when the decision of the Court is said to have been that a respondent is entitled to have the money retained in Court pending his appeal, without himself giving any security for the damages his opponent may sustain by its detention; and this unreported case is, we understand, now considered by the Master in Chambers, to govern the practice. Of course on the principle we started with at the outset the rule laid down by Queen's Bench Divisional Court, in *Delap* v. *Charlebois*, may be just as good as the opposite rule laid down in all the other cases above referred to, though the reason for it may not be quite so obvious, but it is a little hard on practitioners that they should have to govern their proceedings by unreported decisions in manifest contradiction to the overwhelming weight of reported cases.

Why such a decision as *Delap* v. *Charlebois* was not reported, it is hard to say, possibly the learned reporter may have come to the conclusion that the case was so entirely contrary to the decisions of Judges of greater authority that it was best, in the interests of sound law, to consign it to the limbo of forgetfulness, but unfortunately those who happen by chance to have heard of the case are able to resuscitate it at will, to the discomfiture of their adversaries. But if *Delap* v *Charlebois*, could be considered definitely to overrule the decisions above referred to, and settle the practice, the matter would not be so bad; but though in time, the practice, as said to have been settled in that case, may come to be known and acquiesced in, still some litigious individual may at any time think proper to carry the question to another Divisional Court, when the respondent would probably be told by the Bench that *Delap* v. *Charlebois*, is of no authority, there must be some mistake about it, the cases above referred to could never have been cited to the Court, and if the Court really had intended to decide contrary to those decisions it would at least have delivered a considered judgment, that there must have been something peculiar about the case, and finally in deference to the opinion of the Privy