

Jameson v. Lang, 7 P. R. 404; approved in Sheppard v. Kennedy, 10 P. R. 242, where it is said that a *lis pendens* cannot be made use of on the issue of a writ for alimony because the plaintiff fears that her writ may otherwise be fruitless.

TEETZEL, J.

DECEMBER 31ST, 1903.

CHAMBERS.

SOUTHORN v. SOUTHORN.

Arrest—Intent to Quit Ontario—Alimony—Desertion of Wife—Return to Ontario—Fraudulent Intent—Discharge—Terms—Restraint on Disposition of Prosperity.

Motion by defendant for his discharge from custody under an order of arrest made by the Judge of the County Court of Lambton in an action for alimony. The order was made upon the affidavit of the plaintiff only, which stated that for the past eight years the defendant had been guilty of many acts of cruelty towards her and her family, and in July, 1902, deserted her and absconded from this Province to the State of Ohio; that she had no means of support; that defendant had recently returned, and, in her belief, unless an order for arrest should be made, he would quit Ontario forthwith; that he was indebted to his creditors in and about Sarnia to the extent of about \$300; that she believed the defendant intended to quit Ontario for the purpose of freeing himself from any sum which she might recover against him for alimony; that she was informed and believed that he came back to Ontario for the sole purpose of quietly disposing of his property to defraud his creditors, and her in particular, and was liable at any time to leave Ontario; that there was good and probable cause for believing, and she did believe, that unless forthwith apprehended he was about to quit Ontario with intent to defraud his creditors generally, and her in particular of her claim for alimony. The plaintiff did not disclose any other particulars or information upon which she based her belief, either as to intention to dispose of property or as to leaving Ontario. The defendant owned the house and lot in Sarnia in which his family resided, said to be worth about \$700, and that appeared to be his only asset.

I. F. Hellmuth, K.C., for defendant.

S. B. Woods, for plaintiff.

TEETZEL, J.—The affidavits shew that defendant and his wife lived for many years most unhappily, and *prima facie* plaintiff is entitled to alimony by reason of his cruelty and