small creditor would find, were he to proceed under it, that it would cost him to follow up the tedious and troublesome remedy by indictment more than any benefit he would derive; besides, in case of failure, exposing himself to a suit for malicious prosecution, in a case too, perhaps, where if the defendant could have been interrogated the creditor might have triumphantly succeeded in punishing the party, and might have made such discovery as would have led to the ultimate payment of his debt.

And he urged the enactmant of the very provision which afterwards passed into law. The Hon. J. Sanfield Macdonald introduced the act consolidating and improving the Division Courts law, and embodied in it a provision such as Mr. Burns suggested.

When the question of imprisonment for debt was debated before the House last session, Mr. Macdonald declared himself the author of the provision referred to—stated that it was not designed by it to confer any power to imprison for debt—that it certainly was not his intention to enable a creditor to imprison his debtor for non-payment merely of a trifling debt, and he believed that the law would not bear any such construction.

Such, we believe, is the view almost universally taken of the act, and if in any particular locality a different principle is laid down, the injurious effects are not, we repeat, chargable on the system.

We have before us an address by Judge Gowan, made at the Division Courts in his County (in 1851).

In this address which appeared in the papers at the time, all the provisions of Mr. Macdonald's Act then just come into force were entered on very fully. In referring to the 91st clause, Judge Gowan, after speaking of the various fraudulent acts resorted to by unprincipled debtors to get rid of their honest debts, and the ability to elude detection from the previous defective state of the law—which in fact fostered a system of fraud—said, "The new provision (91st clause) will be a great blow to fraudulent practices, and will also be some check on persons about to contract debts who have no reasonable prospect of being able to discharge them afterwards. The powers given are for the discovery of the property withheld or concealed, and for the enforcement of such satisfaction as the debtor may be able to give, and for the punishment of frauds.

"This last is by no means to be understood as imprisonment for the debt due. Under the Statute a debtor cannot be imprisoned at the pleasure of a creditor merely, without public examination by the Court, to ascertain if grounds for it exist in the deceitfulness, extravagance, or fraud of a debtor. The man willing to give up his property to his creditors, ready to submit his affairs to inspection, and who has acted honestly in a transaction, although he may be unable to meet his engagements, has nothing to fear from the operation of this law. It is the party who has been guilty of fraud in contracting the debt, or by not afterwards applying the means in his power towards liquidating it, or in secreting or covering his effects from his creditors, upon whom the law looks as a criminal and surrounds with danger."

Here, then, are the recorded views of one who first publicly urged the extension of this power to the Division Courts, the testimony of the gentleman who introduced the law, and the exposition of it by a Judge who had carefully studied it, given years ago, all going to show that the object was to facilitate the enforcement of such satisfaction as a debtor may be able to give, and for the punishment of fraud. Surely, then, there can be no exception taken to such powers. In point of fact, it was agreed on all hands that just such powers should be possessed by the Courts?

In the practical working of the law, individual cases of hardship did in some instances occur in this way. In case of the non-appearance of the debtor at the time appointed on the summons, the plaintiff could apply to the Judge for an order to commit him for the default, which the Judge was required to grant, unless a sufficient reason for non-attendance was shown on the part of the defendant. This was not always understood, or if known, defendants failed to communicate the reason to the Court, and an order went as of course. It must be confessed also, that the clause was sometimes used vindictively by summoning parties and exposing them to examination, when it was quite within the knowledge of the creditor that they were entirely without means and could not pay the claim.

The "Division Courts" sections in the Act of last session (published in our May No., p. 108) amply remedies these defects by providing, that a party failing to attend shall not be liable to be committed for the default unless the Judge is satisfied that his non-attendance is wilful, or that he has been *twice* summoned and failed to appear without any reason for the same shown, and that if the Judge sees at the hearing that the party ought not to have been summoned, he may order the plaintiff to pay him for his trouble and attendance. The examination also may be taken in the Judge's private room; and if a party be once discharged upon examination he is not liable to be again summoned, except the creditor can shew that the debtor has not made a full disclosure of his property, or has since acquired means. As the law now stands, it is scarcely possible that the power can be abused in any way, and it ought to be let alone. But we fear that "clap trap" or sentimentalism may again raise a cry, and we desire to have the subject fairly and fully discussed, and reliable informa-