

" Considérant en outre que les défendeurs ont allégué que le domicile de la faillie, " La Compagnie de la brasserie de St. Lin, à laquelle les défendeurs sont syndics, est à St. Lin, dans le district de Joliette; que le demandeur n'a pas nié expressément cette allégation, mais y a répondu en invoquant un autre moyen, et que, par suite, aux termes de l'art. 144 du Code de Procédure Civile, cette allégation des défendeurs est censée admise ;

" Considérant que les défendeurs ès-qualité n'ont comme tels d'autre domicile légal que celui de l'être moral de la faillite auquel ils sont syndics, pour toutes les fins des demandes, qui peuvent être faites contre la dite faillite, et que le fait que le domicile personnel de l'un des dits syndics se trouve dans ce district ne peut être considéré comme attributif de juridiction au tribunal de tel domicile personnel quant aux matières concernant la dite faillite ;

" Maintient l'exception déclinatoire produite par les défendeurs et renvoie la dite action avec dépens," &c.

Prévost & Préfontaine, for plaintiff.

T. & C. C. de Lorimier, for defendants.

AMBROIS V. MALLEVAL.

Capias—Intent to defraud.

JETTÉ, J., said that this was a case in which a *capias* had been issued against the defendant on the ground that he was about to leave for Europe, and the plaintiff would be defrauded of his debt. It appeared, however, that the defendant was not about to leave immediately, and had no fraudulent intention in his proposed trip, which was for the purpose of visiting the Paris exhibition. It was established, moreover, that all his interests were here ; the *capias* must be quashed.

Roy & Boutillier, for plaintiff.

O. Augé, for defendant.

HAWKES V. CAFFREY.

Capias—Affidavit—Omission of word "immediately."

JETTÉ, J. This was another case in which a *capias* had issued, and was similar to the case of *Lighthall v. Caffrey*. The defendant petitioned to be liberated on various grounds, one of which was that it was not alleged in the affidavit that the defendant was "immediately"

about to leave the Province. The averment was : "that deponent has reason to believe, and verily believes, that the defendant, to wit, the said James Caffrey, now temporarily in the city of Montreal, is about to leave the heretofore province of Canada." &c. The word "immediately" was left out. His Honor said that he acceded with some reluctance to the opinion of his brother judges on this point—that the word "immediately" was indispensable. The affidavit was, therefore, defective, and judgment must go, ordering the liberation of the defendant.

The judgment is as follows :—

" La Cour, etc. . . .

" Considérant que l'affidavit sur lequel a été émis le dit bref est irrégulier et insuffisant, en autant qu'il ne contient pas l'allégation que le défendeur était sur le point de quitter immédiatement la province ;

" Accorde la dite requête, et casse et annule le dit bref de *capias*," &c.

Macmaster, Hall & Green Shields, for plaintiff.

Carter, Church & Chapleau, for defendant.

RECENT ENGLISH DECISIONS.

Judgment.—There was a controversy over an alleged infringement of a patent, and it was agreed that an expert should examine the lithographic stones in controversy in use by the defendants, and he did so, and reported in favor of the defendants, and judgment was entered accordingly. Afterwards the plaintiffs brought an action to have it declared that the former judgment was obtained by fraud, alleging that the defendants had fraudulently concealed certain stones used by them from the expert, and had made certain false statements to him. *Held*, on the facts, that the fraud was not proved ; and *semble* that a judgment could not be attacked on such grounds.—*Flower v. Lloyd*, 10 Ch. D. 327.

Limitations, Statute of.—Defendant owed plaintiffs a large debt incurred in 1865, and in answer to a demand wrote them in May, 1874, as follows : "Believe me that I never lose sight of my obligations towards you, and that I shall be glad as soon as my position becomes somewhat better, to begin again and continue my instalments." It appeared that in 1874, defendant's position was bettered by £14, but was no better