good. If the age had been proved a curious question might have arisen. Art. 2276 C. C. says that "no priest or minister of any religious denomination, no person of the age of 70 years or upwards, and no female, can be arrested or imprisoned, by reason of any *debt* or *cause* of *civil action*, except such persons as fall within the cases declared in articles 2272 and 2273." By articles 2272, 2273, judicial sureties are enumerated. So it would seem that they are within the exception, and are liable to *contrainte* even after 70 years of age. And so it was held in the case of *Leverson & Boston*, that the Sheriff was liable to *contrainte par corps* even after he had attained the age of 70. But as Codes are created for the purpose of rendering the law obscure where otherwise it would be clear, we have Art. 793 C. C. P., which declares that the debtor may obtain his discharge if he has attained to and completed his seventieth year. And still we are admonished not to refuse to adjudicate under *pretext* of the silence, obscurity or insufficiency of the law. (Art. 11 C. C.)

At the argument another difficulty was raised, namely, that the surety in appeal was not *contraignable par corps*, and consequently his age did not signify. Art. 2272 says: "The persons liable to imprisonment are (3) any person indebted as a judicial surety." By Art. 1930 there is a learned classification of "suretyship," followed by definitions of the different sorts. It says: "Suretyship is either conventional, legal or judicial. The first is the result of agreement between the parties, the second is required by law, and the third is ordered by judicial authority." Now appellant argues that the judicial surety alone is *contraignable*, and that the surety on an appeal bond, although required by law, is not ordered by *judicial authority*, and consequently that he is not *contraignable par corps*.

B. A. T. De Montigny for appellant.

L. O. Taillon for respondent.

BREWSTER, Appellant, and LAMB, Respondent.

Appeal to Privy Council—Security received without leave to appeal first obtained—Execution suspended by giving security.

Sir A. A. DORION, C.J. A motion has been made on the part of respondent that the record be transmitted to the Court below, in order that the judgment may be executed. Lamb obtained a judgment against Brewster in the Court below. Brewster appealed, and in this Court the judgment was reformed. On the day judgment was rendered, a motion was made by appellant for distraction of costs. Five days afterwards Brewster presented a petition to me sitting in Chambers, alleging that the lawyer who was charged with the case was prevented from being present at the rendering of judgment; that appellant was desirous of appealing to the Privy Council; and he prayed that he be allowed to give security, and that the petition for leave to appeal stand as a rule for the first day of next term. After conferring with the other judges, I consented to security being received *de bene esse*, and rejected the rest of the petition. Lamb now moves, not that the security be rejected, but that the record be transmitted to the Court below for execution. The question is not without difficulty. Art. 1178 defines the cases where there is an appeal to the Privy Council, and art. 1179 says, "nevertheless, the execution of a judgment of the Court of Queen's Bench cannot be stayed, unless the party aggrieved gives good and sufficient sureties, within the delay fixed by the Court, that he will effectually prosecute the appeal," &c. Usually the Court grants leave to appeal, and fixes a delay for putting in security. Here no delay was fixed by the Court, but the security was given before the expiration of fifteen days—that is, before the plaintiff could have executed his judgment. We think, therefore, the plaintiff does not suffer in any way, and his motion is dismissed. If the party had presented himself after the expiration of the fifteen days, we would probably have decided differently. It is to be remarked that the Code nowhere says it is necessary to ask leave to appeal.

Motion rejected.

Davidson & Cushing for appellant.

Girouard, Wurtele & Sexton for respondent.

GIROUARD, Appellant, and GERMAIN, Respondent.

Appeal from judgment under Insolvent Act—Clause shortening delay for appeal.

Sir A. A. DORION, C.J. A motion is made on the part of respondent to dismiss the appeal, as having been taken after the expiration of the eight days under the Insolvent Act. We have already decided several times that this delay is