

made the conviction, and the evidence in the one case, although dismissed, being calculated, under the circumstances disclosed, to influence the magistrate in the case in which defendant was convicted.

R. v. McBerny, 26 N.S.R. 327 followed.

Weatherbe, J.] HEYNIGAR, ASSIGNEE *v.* BRINE. [Feb. 5
Collection Act—Fraudulent disposition of property—Appeal from order of examiner dismissed with costs—Refusal to execute assignment—Imprisonment ordered for.

A judgment was recovered against one of the defendants, G.B., on Jan. 31, 1901, for \$37.91, debt and costs and remained unsatisfied, which at the date of the commencement of the examination hereinafter mentioned, amounted to \$50.32. On Dec. 29, 1903, the defendant, G.B., entered into a recognizance for \$45 as surety for his brother J.T.B. in the Police Court at Halifax on appeal from a summary conviction, and justified on oath as being worth "\$45 over and above all his debts" in personal property, which consisted of household furniture, including the above judgment and another judgment had against him by L. & T. for \$65.19, and which two judgments were specifically brought to his notice at the time he was justifying as bail under oath. An execution was issued on the first mentioned judgment on the following day, and the sheriff acting under it, on Jan. 3, 1904, demanded from the defendant the personal property on which he justified, to which G.B. replied that he had sold it to his brother N.B. who took possession of it two days before for \$60, which he gave to his wife for the purpose of buying household supplies, etc. The defendant was shortly afterwards examined under the Collection Act in respect of this judgment. The above facts were proved on the examination, but the disposition of the \$60, the proceeds of the sale of G.B.'s personal property to his brother N.B., was not satisfactorily accounted for to the examiner; it further appeared that shortly after the recovery of this judgment against the said G.B., but before it was recorded, he mortgaged his realty to a building society for \$400, and subsequently conveyed by absolute deed the equity of redemption for another alleged loan of \$400 to his father-in-law, whose heirs without any consideration conveyed said equity to defendant, G.B.'s wife. The defendant G.B. remained in possession of the realty which was assessed in his name, paid the taxes on it, and did not know whether the alleged loan from his father-in-law was paid off by his wife or not. He afterwards himself paid off the mortgage to the building society.

The examiner made an order under the Collection Act, s. 27 (e) against the defendant G. B. committing him to jail for two months for a fraudulent disposition of his property, or until he should pay \$61.42, the amount due on the judgment. On appeal to Weatherbe, J., at Chambers,