

proof of the allegations which that petition contained, which were to the effect that no ground existed for either the one process that had been taken against his person, or for the other against his property. The proceedings complained of were unfounded. The judgment on the petitions would show that; and besides that judgment, the evidence on which it was rendered is produced in this case, and it establishes in my opinion the same thing. The plaintiff, however, to succeed, must go farther than this. He must show that the plaintiff in the first case not only had no just cause, but no probable cause; not only that the step taken was unfounded in itself, and could not bear the light of examination and evidence, but that it could not reasonably at the time have appeared to be well founded to the plaintiff in that case. I cannot say in this particular instance that the defendant had nothing whatever to go upon in acting as he did. What there was may not have appeared sufficient to the judge who discharged the *capias* and the seizure, and may not appear sufficient to me: but I cannot say that, acting upon professional advice as he is proved to have done, and without any proof of express malice, he is to be made liable, by a merely erroneous procedure, to the same consequences that would have ensued if he had acted from impure motives, and without any cause apparent to him. The defendant had leased a workshop and yard to the plaintiff and his co-partner, for three years, and three months, from February, 1872. The rent was paid quarterly in advance; and on the 25th July, a few days before the quarter was coming due, the plaintiff left his shop (the witness say they thought for good), and went to work elsewhere taking with him his tools and two carriages on which he was at work, leaving only some coats and some other trifling things. He had, besides, disposed of some of his stock, such as wheels, and a lot of ash wood. I am constrained to say that things must have looked very suspicious to the defendant. Then it is said, this was not a