"from such arrest and confinement," not "his discharge." Section 4 provides for what the debtor who has given bail before judgment must do after judgment to avoid going to gaol, and section 5 provides what the person absolutely incarcerated may do either before or after judgment to obtain "his discharge."

After this Act had been in force for twelve years, it was thought necessary to appoint a commission for the consolidation of the Statutes. The statute we have just been considering had to be re-shaped, or re-made, and to be incorporated with other statutes. The dispositions of the 12 Vic. appear in Chap. 87 C.S.L.C., which is styled: "An Act respecting arrest, *and imprisonment for debt*, and the relief of insolvent debtors."

The only disposition of the 12 Vict. respecting imprisonment for debt was to abolish it, and by the consolidation it was to remain abolished. To make such a change of name in a consolidation which was only to perpetuate its abolition, was, to say the least of it, infelicitous. It is, however, only just to say, that the consolidation has fairly enough represented the law as it stood, and that in this respect it is open to no greater reproach than having confused the order of the text, and so given those who are desirous of following up the legislation to its source an infinity of trouble. But it has omitted to do what would really have been useful. In the 12 Vic. there is a section 12 which had no longer any meaning after the abolition of imprisonment for debt. The sort of arrest *ad respondendum*, simply because the debtor was leaving the jurisdiction, could no longer arise. It formed part of the machinery for enabling the creditor to get at the body of his debtor by the writ *ad satisfaciendum*. Nothing more was required than to keep him in the Province or to give security for the payment of the debt. Instead of leaving out this section of the 12 Vic., which is in very general terms and very innocuous, the Commissioners, having restored the terms of the 5 Geo. IV, dragged it into prominence as Sect. 3. The 12 Vict. sec. 12, preserved any right to put in special bail to the action which then existed by any laws in force, in other words it was a very maladroit saving clause, whereas the consolidated acts permit any one arrested under ANY writ of *capias ad resp.* to put in bail, the condition of which is that cognizors are not liable unless the defendant leaves the Province without paying the debt, &c., for which action is brought.

This amplification was not only inconvenient but it paved the way for further blundering. We have next to turn to the C.C.P., where we are to look for models of legal diction, free from redundancy, precise and technical.

By article 824 C. C. P. we are told that the defendant may obtain his *discharge* upon giving security that he will not leave the Province of Canada, and that if he does, his sureties will pay the debt, &c.,—not one word as to surrender. It is evidently the old bond prior to the abolition of imprisonment for debt the Codifiers were unwittingly manipulating, subject to the limitation of eight days added by 12 Vic. sec. 12. But there is no such reserve in the Code.

Then comes article 825, by which the defendant may at any time before judgment, give security that he will surrender.

Notwithstanding the serious character of this criticism, it seems to me that we must put such an interpretation on the Acts as will give effect to the intentions of the legislature. In the first place we have the articles 2274 and 2275 of the C. C., which lay down the rule that the fraudulent debtor who has given bail or gone to gaol, can only escape from coercive imprisonment by the statement under oath without fraud and the abandonment of his property. Then article 2274 refers to the code of civil procedure for the form of proceeding and to the chap. 87, C. S. L. C. for the cases in which the proceeding may take place. Now if we look back to chap. 87, we find sect. 12, s.s. 2, provides for the imprisonment of defendant if he neglects to file such statement, *in punishment of his misconduct*. The C.C.P. seems to have no article precisely corresponding, but it is evidently contemplated by art. 793, 4thly.

I therefore think the judgment should be reversed, and the defendant be compelled on pain of imprisonment to give the statement and make the abandonment required by the civil code, else we must decide that the articles of the civil code to which I have just referred are useless for want of an express mode of procedure being laid down by the code.

BABY, J., who also differed from the majority of the Court, expressed his entire concurrence in the foregoing observations of Mr. Justice Ramsay.

Judgment confirmed.

DeBellefeuille & Bonin, for Appellants.
Pelletier & Jodoin, for Respondent.