

secreted them, so that the plaintiffs cannot attach or revendicate them, and all they claim is the value of them, which value is sworn to be so much in U. S. currency, equivalent to a certain amount in Canada money. Are the plaintiffs to be told that under these circumstances they must take out a *saisie-revendication* when the facts sworn in the affidavit show that this remedy would be wholly illusory? As for a criminal prosecution, it could not be sustained under the law as it stands.

Mr. Carter, Q. C., also for the plaintiffs. The real cause of action is the illegal holding of the plaintiffs' property here, and wherever the defendants might transport this property, the plaintiffs would have a perfect right to follow them, and claim the property from them by suit. The removal of the property to Montreal justifies the plaintiffs in considering such removal and illegal holding in Montreal as a fresh and sufficient cause of action arising in Montreal.

Mr. Robertson, in reply. The case appears to me to lie within a narrow compass. Was it not for the plaintiffs to show affirmatively where the bonds were obtained? Their omission to show this in the affidavit is sufficient ground for quashing the *capias*.

Judgment was given Dec. 31.

BERTHELOT, J., stated the substance of the affidavit and motion, and continued: The defendants contend that the affidavit is defective, because it does not disclose a sufficient ground of indebtedness, and, further, say that it appears from the affidavit that the bonds were obtained in a foreign country, and even if held here, such holding is not sufficient ground for a *capias*. It is not on a motion to quash that these pretensions can be examined. I have always been of opinion that an affidavit must be radically defective to be set aside on a motion to quash. The Statute has pointed out the proper course to be adopted, namely, by petition and proof. I am of opinion that the affidavit is sufficient. What renders the defendants liable here is the fact of their being found here with the property in their possession. I have examined all the cases cited, and I find none in contradiction with the decision at which I have arrived. The owner of stolen property has a right of

action against the thief wherever he finds him with the stolen property in his possession. In the present case it is not material whether the property was stolen here or at New York. Both motions must be dismissed. [His Honor referred in the course of his remarks to *Bottomloy v. Lumley*, 13 L. C. R. 227; *Cameron v. Brega*, 1 L. C. L. J. 65; *Dumaine v. Guillemot*, 6 L. C. R. 477; *Redpath v. Giddings* (in which the *capias* issued for damages, and a motion to quash was dismissed by *Smith, J.*); and also to Art. 802 of Draft of Code Civil Procedure, suggested in amendment.]

S. Bethune, Q. C., and E. Carter, Q. C., for the plaintiffs.

A. & W. Robertson, and W. H. Kerr, for the defendants.

#### REPORTING EXTRAORDINARY.

In our Courts we are occasionally favored with judgments in which the facts are presented in rather romantic dress. A judge of a poetic or humorous turn may now and then be seduced into highly colored narratives, by the strangeness of the facts presented in evidence; and a reporter might not be without some excuse for reproducing the romantic statement. But in the neighboring republic, the official reporter of the Supreme Court needs no such incentive to fill his volumes with the rhetorical flights of the shilling novel. From a notice in the *American Law Review* of the three volumes recently issued, we find that Mr. Wallace has hit upon a new and peculiar method of reporting, which will be best understood by a few illustrations.

In one case, *Burr v. Duryee* nineteen pages and nine pictures are devoted to the statement of the case. The arguments are reported in fifteen pages with twelve cuts. In the reports of arguments, even the most absurd flights of rhetoric indulged in by counsel are occasionally preserved. In the case of the *Circassian* for instance, there occurs the following:—  
“ We are engaged in putting down a vast awful and wicked rebellion. We have had no countenance from the British Government, and have been actively and constantly thwarted by the cupidity and wealth of British sub-