characterize the legislation of every Christian country. It further recited that it was desirable to soften the rigor of the laws of Upper Canada affecting the relation between debtor and creditor, so far as a due regard to the interests of commerce would permit It then enacted generally, that no arrest should be made in any civil suit, when the cause of action should not amount to £10, and that it should not, even in these cases, be lawful for a plaintiff to proceed to arrest the body of a defendant unless upon the making of an affidavit of debt and plaintiff's belief that the defendant was immediately about to leave the Province, and that no person should be taken or charged in execution, (*i. e.*, arrested on final process,) for any sum whatever. The enactment, it will be noticed, fell much short of its recital, and left the law as to arrest on mesne process, precisely as it was previously.

Little more than fifteen months were allowed to expire until the Legislature repealed the Act, doing away with the restriction upon arrests on final process, and so restored the law of arrest to its original state.

Such is the present law against which so many clamor—some for amendment, others for repeal. No arrest can be made on mesne process for a debt under £10. When a debt exceeds that amount, the arrest may be made either on mesne or final process; but in the former case, not without an affidavit showing plaintiff's cause of action, and his apprehension of defendant leaving Upper Canada. When the cause of action is a debt certain, a writ of capias may issue upon the filing of the affidavit without the intervention of any Judge. When it is for a cause other than a debt certain—for example, damages for seduction—a Judge's order is necessary before proceeding to arrest. These are the only cases in which arrests can be made for the *security* of the plaintiff. Arrests may be made for the *punishment* of a debtor in the cases following. Whenever a plaintiff having obtained a judgment in a Superior or County Court, swears that in his belief, the defendant has parted with his property, or made some secret or fraudulent conveyance thereof, in order to prevent its being taken in execution, a writ of capias ad satisfaciendum—that is final process—issues upon the filing of the affidavit for the arrest of the defendant. Whenever a judgment is obtained in a Division Court for an amount within its jurisdiction, whether under or over £10 the defendant may be summoned and examined as to his means of satisfying it. If he do not attend and do not allege a sufficient reason for not attending, or if attending, he do not answer to the satisfaction of the Judge, or if it appear to the Judge that credit was obtained by false pretences, fraud, breach of trust, or that the debt was wilfully contracted by defendant without his having any reasonable expectation of his being able to discharge it, or if fraud in the concealment of property be made to appear, or if it be shewn that after judgment, defendant had means to pay the debt, but did not do so: in all these cases, the judge may commit the defendant to gaol for any period not exceeding forty days, (13 & 14 Vic. cap. 53, s. 92.) Prisoners in some gaols concerning whom an outcry is made because of their owing only a few dollars must have been incarcerated under this clause, and if so, under the direct order of the County Judge—the imprisonment being for fraud, and *not* for debt.

The best grounded causes of complaint are, in our opinion, those alleging that the facilities for arrest for debt are too great and demand restriction. We agree with those who say there is not sufficient check to prevent the law being made an instrument of oppression. We think that an affidavit made for the purpose of arresting a debtor either on mesne or final process, should show the grounds of suspicion. We think, moreover, that no arrest should be permitted till a Judge is satisfied of the sufficiency of the grounds stated. It is wrong to suffer any man, learned or unlearned, to work his mind into a state of apprehension of losing his debt, and then allow him to be so far the judge of the correctness of his apprehension as to enable him to arrest his debtor, in order to prevent his fancied flight, or to punish his fancied fraud. Whether oppression be designed or not, the effect upon the debtor is the same. A Judge if appealed to before arrest, being more experienced and less disinterested than any ordinary creditor would be of the two, more likely to arrive at a correct judgment. To the creditor as well as to the debtor we believe the change would be for the better. If arrests were sanctioned by a Judge, the responsibility would be in a great measure shifted from the creditor to the Judge. There would be fewer actions for malicious arrest, and to the creditor a relief from the apprehension of such actions. To the debtor there would be less apprehension of arrest, and of course, less embarrassment in the anticipation of it. The security of the creditor would not be at all lessened, and the security of the debtor, by which we mean his peace of mind, would be to a great extent guaranteed.

We have a precedent for this proposed amendment. It is now nearly twenty years since the right of the creditor to arrest his debtor was in England, restricted as we propose. By a Statute passed on 10th August, 1838, (1 & 2 Vic., cap. 110,) it is enacted that if a plaintiff by affidavit show to the satisfaction of a Judge of one of the Superior Courts, that he, the plaintiff, has a cause of action against the defendant to the amount of £20, or upwards, or has sustained damage to that amount, and that there is probable cause for believing the defendant is about to quit England unless apprehended, it shall be lawful for such Judge