

Suppose, in the opinion of the judge, the plaintiff would fail, even if the Court had jurisdiction, could it be said that he failed to recover judgment because the Court had no jurisdiction?

Construed strictly does not the rule mean this, that upon the case being heard, the plaintiff would, in the opinion of the judge, be entitled to judgment, but for want of jurisdiction in the Court, and on that account having failed to obtain judgment, the judge has authority to deal with the costs?

Should not the section or rule be amended so as to provide "that in all cases where the plaintiff fails to recover judgment, or where the case or matter shall not be heard or disposed of, by reason of the Court not having jurisdiction," etc?

Yours, etc.,

JUSTITIA.

February 20th, 1890.

[Without a recast of the whole subsection, or a special provision by independent enactment, it would be difficult to provide for a case which would "*not be heard or disposed of*" by the judge in open Court. An objection to the jurisdiction might be put in with the defence note; the plaintiff on receipt of that may decide to withdraw the case, or not go on with it. We do not see how the judge would, under the proposed amendment, have power or authority to order costs to the defendant, if any were incurred.—ED. C.L.J.]

IMPRISONMENT FOR DEBT.

To the Editor of THE CANADA LAW JOURNAL.

SIR,—I have read the letter of your correspondent, "Justitia," and notice that you invite opinions from men experienced in the administration of Division Courts' Law. With reference to the proceeding by judgment summons, I would say that I do not regard the procedure as one savouring of "imprisonment for debt" in the ordinary sense of that expression. It is not the *theory* but the *fact* of calling upon a man to answer for his fraud or neglect to pay what he justly owes, and for withholding from his creditors that which is their due—he having the means of satisfying a judgment. Some years ago, the *London Free Press* published articles suggesting the expediency of abolishing the right to sue for small debts altogether. Such a course would have the tendency to bring upon men of small means great hardship, because to some extent the credit system is essential to many. It is a well established fact that the very existence of a tribunal which can make a man honest enough to pay his debts if he is able, though unwilling, causes many to pay what they owe, who would not but for the knowledge that the legal machinery exists whereby they can be sued for their debts. So it is with regard to the proceeding by judgment summons. Many persons would not, were the clause referred to by your correspondent repealed, pay their creditors at all, and so long as they could get into debt, would, without scruple, let their creditors remain unpaid. It is well known that in some counties the administration of this law is so wisely and temperately administered that many thousands of dollars are collected without imprisonment, which would not be