

Province of British Columbia.

SUPREME COURT.

Irving, J.]

IN RE McDONALD BROTHERS.

[May 11.

*Certiorari—Sufficiency of description in conviction.*

Application for certiorari and to quash a conviction by the Police Magistrate of Vancouver for an infraction of a by-law which prohibited livery stable keepers from hiring conveyances to notoriously loose characters. The conviction was of McDonald (without any Christian name) for the offence recited to have been committed by McDonald Brothers. Joint and several offences were also recited as having been committed by McDonald Brothers. The fine inflicted was directed to be paid by McDonald Brothers.

*Held*, following *Regina v. Harrison*, 8 T.R. 508, that if the conviction is for several offences, each guilty person must be specifically named in the conviction, and the omission to set out the Christian name is fatal.

*Macdonell*, for McDonald Brothers. *Hammersley*, for City of Vancouver.

Irving, J.]

COX v. CUNNINGHAM.

[June 10.

*Ca. re.—Arrest before judgment—Foreign debt.*

The defendant in this case came from Nova Scotia, and was on his way to the Yukon with merchandise to sell there when he was arrested at Vancouver on a *ca. re.* at the instance of the plaintiff who resided in Nova Scotia. This was an application for his discharge on the ground that the Act providing for arrest by *ca. re.* did not contemplate the arrest, by a foreign creditor, of a foreigner merely passing through this country, and at least there was a discretion which should be exercised in the defendant's favour, inasmuch as the fact of his being a foreigner and only passing through the country rebutted the assumption ordinarily existing that he was leaving the country with intent to defraud creditors.

*Held*, that a foreigner under the above circumstances is in no different position from a resident debtor as regards his arrest under *ca. re.*

*Russell*, for plaintiff. *Macdonell*, for defendants.

NOTE.—The defendant was subsequent to judgment discharged from custody, he having shown on examination that he had no means to satisfy the debt and the statute providing for discharge in such a case.

McColl, J.]

REGINA v. NICOL.

[June 13.

*Criminal libel—Time to apply for commission to take evidence of witnesses abroad.*

On motion made on behalf of defendant upon close of the pleadings in which a plea of justification had been entered, motion was made at the trial on behalf of defendant for a commission to take evidence of witnesses in England in support of the plea of justification. It was objected on behalf of the Crown that as the parties had come down to trial the application was too late.

*Held*, that defendant was entitled to take every moment to consider