

TOWNSHEND, J. }
In Chambers.

[April 17.

KNAUTH v. STERNS.

Capias—Foreign firm suing in firm name—Arrest of foreign absconding debtor—Affidavit for order to arrest—Change of solicitor.

Defendant, a foreign debtor absconding from his own country, was arrested upon mesne process at the suit of a foreign firm suing in the firm name. The affidavit for order to arrest was sworn by plaintiff's solicitor at Halifax, and purported to contain the positive knowledge of deponent, though it appeared from a supplementary affidavit used on this application that his "knowledge" was rather of the character of information and belief derived from and based upon the admissions of defendant himself. The cause of action set out was a cheque drawn by defendant and dishonored upon due presentation for payment. Defendant entered a conditional appearance by one solicitor, and after the lapse of several weeks applied by another solicitor to set aside the order for arrest and all proceedings thereunder.

Held, (disposing of the various points raised)

(a) That it was not necessary that the individual names of the foreign firm should be severally set forth.

(b) That though ordinarily where the parties are foreigners and defendant is temporarily resident within the jurisdiction for the purpose of casual business only, the latter cannot be arrested for a debt contracted abroad, yet the present case came well within the exception treated in *Butler v. Rosenfeldt*, 8 P.R. 175—which case afforded a complete answer on this point.

(c) That in such a case, provided a cause of action is shown, the Judge will not examine too critically the particular form of procedure.

(d) That defendant having appeared by one solicitor, no other solicitor could take a proceeding in the cause without a change duly made on the record.

(e) That there was unreasonable delay unaccounted for in making the application.

Summons dismissed with costs.

Fulton, for application.

Whitman, contra.

Province of New Brunswick.

SUPREME COURT.

EN BANC.]

[June 12, 1895.

EX PARTE LITTLE.

Slander of clergyman.

A charge that an Episcopal clergyman is guilty of making a false statement is not a charge involving either dishonest or immoral conduct within the meaning of the Church canon, without an allegation that such clergyman knew the statement was false.

McIntyre, and *Currey*, Q.C., for complainant.

Skinner, Q.C., contra.