

Held, 1. The examiner was fully justified in making the order for imprisonment and the appeal should be dismissed with costs.

2. Where the debtor refused to execute the assignment mentioned in s. 28 of The Collection Act, and the judge or examiner determines to commit him under s. 27 of the Act, the warrant or order of committal cannot then direct an assignment to be executed, but such refusal of the debtor to execute it can be only taken into consideration by the officer or judge in fixing the term of imprisonment.

H. Mellish and J. L. Barnhill, for appellant. *J. J. Power*, for respondent.

Townshend, J.] HENNIGAR v. BRINE. [Feb. 16.
Collection Act—Bond to appear on hearing of appeal—Action for penalty under—Damages to be assessed—O. 3, rr. 5 and 6.

One of the defendants, G.B., appealed to a Supreme Court judge in Chambers from the examiners' adjudication referred to in *Hennigar, Assignee, v. Brine*, supra, and gave a bond in the sum of \$61.42, required by s. 32, of the Collection Act, conditioned personally to appear before the judge on the hearing of the appeal, and to surrender himself to prison in case of an adjudication of imprisonment. The appeal was heard and dismissed, and the adjudication below confirmed, and, for an alleged breach of the condition of the bond by the defendant in not surrendering himself to prison, an action was commenced on the bond against the defendant, G.B., and his sureties for the penalty of \$61.42, by the issue of a general writ of summons. The defendants, before appearing, moved to set the writ and service aside on the grounds (a) that, being for a debt or liquidated demand, the writ should have been specially endorsed under order 3, rule 5, and (b) that the writ, in any event, should have been endorsed with the usual claim for costs under order 3, rule 6, citing *Murray v. Kaye*, 32 N.S.R. 206.

Held, dismissing the motion with costs, that the claim was not a debt or liquidated demand for money, but was one in respect to which damages must be assessed. *Sloman v. Walter*, 2 W. & T., Leading Equity Cases (Blackstone ed.) page 1267; Leake on Contracts, 3rd ed., page 122; and *Tutler v. Caralampi*, 21 Q.B.D. 414, referred to.

J. M. Davison, for motion. *J. J. Power*, contra.

Weatherbe, J.] IN RE GEORGE BRINE. [Feb. 19.
Habeas corpus—Arrest of witness while returning from giving evidence—Detention under order of punitive and quasi criminal character—Motion for discharge refused—Remedy.

The applicant, G.B., was arrested at the City of Halifax, at which place he resided, by the sheriff of the County of Halifax, under the order of Weatherbe, J., referred to in *Hennigar, Assignee v. Brine*, supra, on