the defence, shew the grounds for the belief of the deponent in the truth of the statement made, as required by Con. Rule 518, where facts are stated not within the knowledge of the deponent; and did not in terms state that the defendant had a good defence on the merits, nor set out the facts justifying the conclusion that the defendant had such defence or that the grounds of action were trivial or frivolous.

Held, 1. The affidavit was insufficient, and the motion should be dismissed, but, as it appeared that the defendant acted as an officer of the law, the dismissal should not preclude an application upon better material, on payment of costs.

2. The solicitor for the defendant was an "agent" within the meaning of the statute, and might make the affidavit.

Decisions of CLUTE, J., and the Master in Chambers reversed.

J. B. Mackenzie, for plaintiff. *Monahan*, for defendant.

Falconbridge, C.J.K.B., Britton, J., Riddell, J.] [March 9.

STANDARD BANK *v.* STEPHENS.

Promissory note—Subscription for share in company—Fraud—Note of subscriber transferred to bank—Holders in due course—Hypothecation of securities—Powers of company—By-law—Resolution—Indorsement by secretary—Negotiation of note.

The defendant was induced to subscribe for one share of the stock of an incorporated manufacturing company, and to give a promissory note for the amount of the par value thereof, by a false and fraudulent representation made by an agent of the company. The note shewed on its face that it was given for a share in the company, and it was indorsed to the order of the plaintiffs, a chartered bank, by an indorsement in the name of the company, with the name of the secretary thereof signed thereto. A by-law was passed by the directors of the company, and confirmed by the shareholders at an annual meeting, authorizing the borrowing of money, following the words of section 49 of R.S.O. (1897) c. 191. It was also resolved by the directors, and confirmed by the shareholders, that an account be opened with the plaintiffs; that all moneys, orders, and other securities belonging to the company and usually deposited in the ordinary course of banking, be deposited in said bank account; that the same might be withdrawn therefrom by cheque,