August, 1900, by the name of La Compagnie de Publication Le Temps. That she never took any part in and knows nothing about the business. That the writ herein never came to her knowledge, and she never knew that she was in any way liable to be proceeded against until served with notice of motion to issue execution against her. That she never authorized any one to take proceedings or to do anything for her in the name of the company; and that she cannot read or speak English.

The objections to the present order resolve themselves into two, namely: (1) that the judgment in this action against the partnership was recovered upon the judgment of a foreign Court against a corporation and not against the partnership firm now sued, in short, that such judgment disclosed no cause of action against a partnership firm; and (2) that the writ in this action having been served upon the manager of the business, and not upon either of the partners, the service was irregular or void because of the omission to serve the notice in writing on the manager informing him in what capacity he was sued, as required by Rule 224.

I have given this matter more consideration than I at first thought was due to it, because on looking through the papers it seemed not improbable that some miscarriage had occurred at an earlier stage of the proceedings. I am, however, quite clear that neither of the objections I have mentioned is open to the defendants on the present motion. It must now be taken that the judgment in this jurisdiction was recovered against a partnership firm, and not against a corporation. I do not know whether the action was intended to be so brought, but it must have been so assumed and held by the Divisional Court when they varied the order of Britton, J., for the examination of Flavien Moffet. The evidence before me is that when the original cause of action in the Quebec suit arose, and when this action was brought, there was a registered partnership firm, the members of which were Flavien Moffet and Sara Moffet, and it has not been shewn that there ever was in truth a corporation of that name in this Province.

If the judgment in the Quebec action is to be regarded as a judgment against a corporation or body corporate, and therefore not capable of being the foundation of an action thereon against a partnership firm of the same name, that is an objection which should have been taken on the motion to enter summary judgment, and it appears not to have been