

HODGSON, J., }  
In Chambers. }

RE PHELAN.

*Habeas Corpus—Sheriff acting as a J. P.*

P. was committed to jail for an offence under the C. T. Act. The commitment was signed by Logan and Horne, before whom he was convicted. After conviction, and before the commitment was issued, Horne became sheriff, and was such sheriff when he signed the warrant of commitment.

Application was made to set commitment aside on the ground that Horne could not act as J. P. and sheriff at the same time.

HODGSON, J. "The application must be refused. It is true that the schedule to 51 Vic., c. 34, 'An Act to Amend The Canada Temperance Act,' gives the forms of warrants of commitments, in which appears E. T. J. P. G. H. J. B., which forms by s. 14 are declared to be 'sufficient in the cases thereby respectively provided for.' But I cannot concede any force to the argument that these forms override the provisions of the Summary Convictions Act, which permits a warrant to be issued by one J. P.. If Horne's signature is a nullity, Logan's signature is sufficient. The prisoner must be remanded to prison."

*W. S. Stewart, Q.C., for application.*

COURT OF CHANCERY.

HODGSON, M. R. }  
In Chambers }

GILLIS *v.* GILLIS.

*Service of subpoena in Chancery abroad—Mode of service.*

In this case application was made for deductions as to the mode of service of a subpoena in Chancery on four defendants residing in Boston U.S.A. Under C.L.P. Act, 1873, and amending Acts, s. 9, power is given to a judge to direct the subpoena to be published in a newspaper of this Province, or to order a copy to be sent by mail to the defendant's address, "or generally to make such order as to the mode of service as he may deem expedient."

It was ordered that a copy of the subpoena be served personally on the defendants in Boston, who were British subjects. But it is different with the defendant who is an American citizen. The Queen's writ cannot be issued into a foreign country, commanding a foreigner in Her Majesty's name to enter an appearance in this court, for that would not be compatible with the comity of nations: *Crothy v. The Oregon and Transcontinental Railway Co.*, 3 Man. R. 182. It is directed that a notice of this writ be served on the defendant, who is an American citizen, following Rule 6 of Ord. XI. of Rules of the Supreme Court, as applicable to the Chy. Div. of the High Court of Justice in England.

*McDonald and Martin for complainants.*

*Morson, McQuarrie and M. McLeod, Q.C., for defendants.*