VAN BLOMMESTEIN *vs.* VAN BLOMMESTEIN.

Arrest under Rule of Court 8.

A writ cannot be issued under Rule of Court 8, *for the arrest of a defendant, against whom a still subsisting summons has been issued in respect of the same cause of action.*

When such a summons is in existence, defendant can only be arrested on a writ issued by one of the judges of the Supreme Court.

1880.
June 3.

Van Blommestein *vs.* Van Blommestein.

This was an application to have a certain writ of arrest discharged.

It appeared that upon the 13th May, 1880, a summons was issued by respondent against applicant for a divorce on the ground of his adultery. This summons was served on applicant, and had not been withdrawn. Subsequently, respondent (applicant's wife), having reason to believe that applicant was about to flee from the Colony, had him arrested under the 8th Rule of Court. Applicant now applied for his release, on the ground, mainly, that it was not competent for such a writ to issue against him, since a still subsisting summons had been issued against him on the same ground of action.

Maasdorp (with him *Jones*), for applicant.
Upington, A.G. (with him *Leonard*), for respondent.

DE VILLIERS, C.J.:—This writ of arrest must be discharged. At the same time, I am bound to say that, if under the peculiar circumstances of this case, an application had been made to a judge in chambers, or to the Court, for an order calling upon the defendant to show cause why he should not be interdicted from leaving the country until he should give security for costs, such an order would have been granted. More than that; if it had been shown on that *ex parte* application that there was an immediate necessity, the Court would have made an order for the arrest. But that case is not before the Court. I think, moreover, that the plaintiff will be entitled to claim from the defendant some amount to enable her to incur the costs of bringing her action, because,—according to her allegation, it would appear

1880. June 3.

Van Blommestein *vs.* Van Blommestein.

that the defendant has all the joint estate in his own hands. The writ must be discharged, but the question of costs will be reserved.

Upington, A.G., then applied for an order for the attachment of defendant's person in default of his giving security to abide the result of the action being brought against him by plaintiff.

DE VILLIERS, C.J. :—The order of the Court is, that the defendant do show cause, if any, to this Court to-morrow, why he shall not give security to abide the judgment of this Court in the said action for the dissolution of his marriage with the plaintiff, and, failing such security, why he shall not be arrested on the ground of his meditated flight from the Colony, and that he do further show cause why he shall not contribute the sum of £150 to assist the plaintiff in the prosecution of the said case.

DWYER and SMITH, JJ., concurred.

[Applicant's Attorney, J. C. DE KORTÉ.
Respondent's Attorneys, REDELINGHUYS & WESSELS.]

FAURÉ *vs.* THE COLONIAL SECRETARY.

Governor's Commission.—Letters Patent of August 20, 1872.—*Letters Patent of February* 26, 1877.—*Interpreter of Supreme Court.*

As between the Governor and a subject, the Governor of a Colony has not a delegation of the whole Royal authority, his powers being limited by the express terms of his Commission.

It is usual for the Governor of this Colony to be entrusted by his Commission with the full power of removal of public servants which the Queen herself possesses, which power authorizes him summarily to dismiss any public servant who holds during the pleasure of the Crown, even though such servant