Ford, for the applicant. A second bail bond could not be demanded from the accused. As he was not indicted within six months from the date of the first bail bond, he was free from all further prosecution. Art. 69 of the Ordinance on *Criminal Procedure* (1866) says: "No wrong-doer, who has been discharged on bail and who has not been put on his trial within the time mentioned in his bail bond, shall be bound to give further security for his appearance." Art. 55 says: "The judge has the power and is bound to discharge any person on bail during the preliminary examination or after it has been concluded, when such is demanded by the wrong-doer, unless he is guilty of a capital offence."

Leyds, A.-G., for the State. Art. 69 must be read with articles 63 and 70. It is applicable only in cases where the preliminary examination has already been concluded. This is not the case here. Art. 70 reads: "All wrong-doers must be put on their trial within the period of six months *after the conclusion* of the preliminary examination, and in the event of any wrong-doer not being put on his trial within such time he shall have the right to demand his discharge, and no wrong-doer thus discharged shall be again charged with the same crime."

KOTZÉ, C.J. I am of opinion that article 69 does not free Nellmapius from further preliminary examination. The summons is, however, informal, having been signed by the Landdrost *pro* the Public Prosecutor. The arrest for not appearing to answer to this summons, and the fine, must therefore be set aside.

VAN PALM *vs.* SCHULTIS.

Arrest—The Grounds for Believing that a Person is about to leave the Country must be given.

Where there was no proof that P. intended to leave the country for good, and the application by S. for a warrant to arrest him did not give any reasons for believing that he did intend to do so, the Court set aside the arrest.

1886.
May 20

Van Palm *vs.* Schultis.

On the 15th May, 1886, Schultis applied to the judge in chambers for a warrant to arrest Van Palm. The application set out that Schultis was the holder of a promissory note for £39 18*s*. given by Van Palm, which note was due on the 7th June, 1886; that Van Palm was a surveyor, and had no landed property in this State; and that the applicant had reasons for believing that Van Palm was on the point of leaving the country for good. On this application a warrant was issued, and Van Palm arrested. He thereupon applied to have the arrest set aside.

Cooper, for the applicant. Rule 7 of the Rules of Court prescribes what must be done in order to procure the arrest of a person. This rule has not been followed. No reasons for believing that Van Palm did not intend to return to this country were given. Art. 55 of Law 1 of 1874 has not been complied with. There is no proof that the interests of Schultis were in danger. (*Vide Norden* vs. *Sutherland*, 3 Menzies, 133; *D'Arcy, N. O.* vs. *Jackson*, decided in this Court in June, 1881; *Gunn* vs. *Hollard*, decided in this Court in 1883.) The strictest accuracy is always necessary when a warrant of this sort is asked for. (*Vide Spiegel* vs. *Eisenbach & Co.*, and *Spiegel* vs. *Steytler & Co.*, 1 Juta, p. 226.)

Hollard, with him *Buskes*, for the respondent. The circumstances here show that it was impossible to follow Rule 7. It is clear that Van Palm intended to leave the country. The authorities quoted do not apply to this case.

Kotzé, C.J. The arrest must be set aside, firstly, because there is no proof that the applicant, Van Palm, intended to leave the country for good, and not merely to be absent for a short time. (*Vide Norden* vs. *Sutherland*, 3 Menzies, p. 133.) Secondly, because no reasons for believing that he intended to leave the country for good were given in the application for a warrant to arrest him. The applicant is entitled to the taxed costs.