

1917

## QUEBEC ADMIRALTY DISTRICT.

October 15.

Reasons for  
Judgment.MacLennan  
D.L.J.A.

FREDERICK R. JOHNSON . . . . . PLAINTIFF;

VS.

THE SHIP *CHARLES S. NEFF* . . . . . DEFENDANT.*Shipping—Admiralty—Practice—Security—Non-resident surety.*

*Held:* That in a case where personal surety is offered the person giving such security must reside within the district wherein the action is instituted.

APPLICATION made in a cause instituted in the Quebec Admiralty District to approve of a security given by one surety resident outside of the said district.

*J. A. Cameron, K.C.*, for applicant.

*Lafleur, McDougall & Co.*, contra.

October 15th, 1917.

MACLENNAN, D. L. J. A. this (15th October, 1917) delivered judgment.

The plaintiff, who resides in the province of Ontario and was ordered under Admiralty Rule of Practice 134 to give security for costs, now moves for permission to give the bond of one surety who also resides in Ontario. Both parties have filed affidavits as to the property and means of the proposed surety. Counsel for defendant opposes the motion on the ground that a non-resident of the Quebec Admiralty District cannot be accepted as surety and that in any event his means are insufficient. No authority was

cited where a non-resident surety has been accepted as bail for costs in an Admiralty matter. The purpose of furnishing bail or security for costs is to enable a successful defendant to levy execution within the district on the goods and chattels of the surety. Security to be effective must be within easy reach of the successful litigant by the process of the court, and if the successful party has to go afield and beyond the limits of the Admiralty District seized of the litigation, the bond of the surety might be of little value as security. Residence within the district seems essential in the case of a personal surety. There is authority against the acceptance of a non-resident surety; 2 Pritchard Admiralty Digest, 3rd Ed. 1549 (note); *Knight v. De Blaquiere* (1). In my opinion, it would be a dangerous precedent and contrary to the principles which govern this matter to accept the bond of a non-resident individual as surety. It would be quite different if the bond offered were that of a company having assets and an office in the district, although its head office might be elsewhere. In the circumstances it is unnecessary to consider the request to dispense with the rule requiring two sureties or the sufficiency of the one offered. The motion must be dismissed with costs.

*Judgment accordingly.*

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(1) [1839] 1 *Ir. Eq. R.* 375; 11 *Mew's Digest* 378; 19 *Cyc. (Pl. and Practice)* 386.