

1917
Dec. 11.

FRED JOHNSON AND ADAM BROWN MacKAY,

PLAINTIFFS,

v.

THE STEAMSHIP "CHARLES S. NEFF"

AND

The Crew of the STEAMSHIP "SARNOR" and
the Underwriters of the Ship as added parties,

DEFENDANTS.

(No. 2.)

Admiralty Courts—Transfer of cause—Comity.

On the ground of comity, the Exchequer Court will not entertain an application for the transfer of a cause from one admiralty district to another without the application having first been made before the local Judge.

APPPLICATION for the transfer of a cause from the Toronto to the Quebec Admiralty District.

The motion came on before the Honourable Mr. Justice Audette, at Ottawa, December 11, 1917.

J. A. H. Cameron, K.C., for plaintiff Johnson.

Langs, for MacKay.

M. J. O'Reilly, for the Ship.

AUDETTE, J. (December 11, 1917) delivered judgment.

I am asked to make an order to transfer a case from the Toronto to the Quebec Admiralty District, without an application for this purpose having first been made before the Local Judge.

Were I to entertain the application, it seems to me, it would be a "tyrannous exercise of concurrent jurisdiction," to quote an expressive judicial phrase; because there is a competent Court duly seized of the cause where the matter ought to be first dealt with.

It would be a great discourtesy to the Judges of the Quebec and Toronto Admiralty Districts, and it would also be ignoring the principles of comity, for me to entertain the proposed application, and I wish especially to put myself on record as absolutely declining to deal with this matter on the merits,—and that it is strictly and exclusively upon the ground of comity that I dismiss the application and with costs.

Application dismissed.

Solicitor for plaintiff Fred Johnson: *J. A. H. Cameron.*

Solicitors for plaintiff, Adam Brown MacKay: *Langs & Binkley.*

Solicitor for Ship "Charles S. Neff" and Underwriters: *M. J. O'Reilly.*

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S.S. "CHARLES
S. NEFF."

Reasons for
Judgment.