

19) and The Post Office Act, (38 Vict., c. 7,) it was valid even if it did not conform in every particular to the provisions of Art. 1131, C. C. L. C.

It was also objected that the bond did not cover the defalcations of the postmaster in respect of moneys coming into his hands as agent of the savings bank branch of the Post Office Department.

Held, that it was part of the duties of the postmaster to receive the savings bank deposits and that the sureties were liable to make good all the moneys so coming into his custody and not accounted for.

The sureties upon a postmaster's bond are not discharged by the fact that during the time the bond was in force the postmaster was guilty of defalcations, and that such defalcations were not discovered or communicated to the sureties owing to the negligence of the Post Office authorities. Nor is the Crown estopped from recovering from the sureties in such a case by the mistaken statement of one of its officers that the postmaster's accounts were correct, and upon the strength of which the sureties allowed funds of the postmaster to be applied to other purposes than that of indemnifying themselves.

The Crown is not bound by the doctrine of *Phillips v. Foxall*, L. R. 7 Q. B. 666, inasmuch as it proceeds upon the theory that failure by the obligee to communicate his knowledge of the principal's wrong doing amounts to fraud, and fraud cannot be imputed to the Crown.

The statute 33 Hen. VIII, c. 39, s. 79, respecting suits upon bonds is not in force in the Province of Quebec.

Newcombe, Q.C., and *Gishorne*, for the Crown. *Hogg*, Q.C., and *Madore*, for defendants.

Province of Ontario.

COURT OF APPEAL.

Practice.] MURPHY v. PHOENIX BRIDGE CO. [June 29.
Writ of summons — Service on foreign corporation — Business within Ontario — Servant — Acquitted — Rule 159.

Order of a Divisional Court, 18 P. R. 406, reversed, and order of MEREDITH, C.J., restored.

W. H. Blake, for the appellants. *Mulvey*, for the respondents.

Moss, J.A.] CONFEDERATION LIFE ASSOCIATION v. LABATT. [June 30.
Appeal — Court of Appeal — Stay of execution — Security for damages — Rule 827 (2).

An application by the defendant Labatt for an order Rule 827 (2), that, notwithstanding the pendency of the appeal of the MacWillie Company,