

As to the other issues judgment is to be entered for defendants, with so much of the costs of the action as are applicable thereto.

Costs of all defendants to be set off against plaintiff's judgment and costs.

CARTWRIGHT, MASTER.

OCTOBER 14TH, 1903:

CHAMBERS.

DELAP v. CODD.

*Security for Costs—Residence of Plaintiff Corporation—  
Dominion Incorporation—Head Office.*

Motion by defendant Armstrong for an order requiring plaintiffs to give security for costs.

It was admitted that the plaintiff Delap resided in England, and the question was whether the plaintiffs, the Great North West Central Railway Company, resided in Ontario.

C. A. Moss, for applicant.

F. Arnoldi, K.C., for plaintiffs.

THE MASTER.—By 58 & 59 Vict. ch. 48, sec. 2 (D.), the head office of the railway company was changed from Ottawa to Toronto. This Act was assented to on 28th June, 1895. By 1 Edw. VII. ch. 63, sec. 2 (D.), assented to 23rd May, 1901, it was enacted that the head office of the railway company should be at Montreal, but power was given to the directors to change it by by-law to any other place in Canada. On 2nd June, 1903 a by-law was passed fixing the head office at Toronto from 1st June, 1903, to 1st May, 1904.

The present action was commenced, so far as relates to defendant Armstrong, after the passing of the by-law of 2nd June, 1903.

It is laid down in the Am. & Eng. Encyc. of Law, vol. 7, p. 694, that "the residence of a corporation is in the sovereignty by which it was created." It follows from this that the residence of the company is the Dominion of Canada, and that the company is resident in every part of it. If this is so it must be specially true that it is to be deemed resident in Ontario when its head office is in Toronto.

[Kavanaugh v. Cassidy, 5 O. L. R. 614, 2 O. W. R. 27, 143, 303, 391, and McLaughlin v. Rodd, 2 O. W. R. 309, referred to.]

Motion dismissed with costs to plaintiffs in any event.