

tion with this article it was decided by Mr. Justice Mackay and again by Mr. Justice Sicotte, in 1872, that it was not necessary to describe the real estate of the sureties, or even of a single surety, in the bond. (2 Revue Critique, p. 235, and 16 L. C. J. p. 255.)

These precedents are sufficient; and the reasons on which they are founded seem clear. A bail-bond creates an obligation on the part of the sureties towards the respondent, and being judicially entered into, carries hypothec on any real estate belonging to the sureties which may be described in a notice duly registered with or subsequently to the bail-bond. It is therefore only necessary to describe the real estate of the sureties in the bail-bond when the law specifically requires it.—It is not required in the case of the contestation of an election under the municipal code or under the charter of the City of Hull; and the omission of the description of the real estate of the surety in the bail-bond in the present case is therefore not a cause of nullity nor even an irregularity.

When, however, a surety is objected to, he is required to give a description of his real estate, and to establish his title and its hypothecary status and value. If the respondent could not contest the form of the bail-bond because it did not contain such description, he could, on the presentation of the petition, contest the qualification of the surety. As the exception in this case implied an objection to the qualification of the surety, I ordered him to give a description of his real estate and to show his title and its hypothecary status and value; and he has done so to my satisfaction.

I therefore overrule the preliminary objections.

The judgment was recorded as follows:—

“The Court, having heard the parties by their counsel on the preliminary objections raised by the respondent, having taken the declaration of the surety Damien Richer and examined the deeds and certificates produced by him under and in obedience to the interlocutory judgment of the 18th day of February instant, having examined the record and having deliberated;

“Considering that all the proceedings in the contestation of the election of an alder-

man of the City of Hull, whether had before the judge in vacation or before the judge in term, form part of the records of the Superior Court, and that the contestation of such election is therefore a matter which depends on and belongs to the Superior Court;

“Considering that it is not necessary that the bond entered into for security for costs should contain a description of the real estate on which a single surety justifies his sufficiency, and that the bond, without such description, is obligatory, and carries hypothec on any real estate of the surety which may be described in a notice duly filed and registered, but that the respondent may contest the qualification and the sufficiency of the surety, and that in such case, the surety is required to give in a declaration of his real estate, together with his titles thereto;

“Seeing that the surety in this cause has, in compliance with the interlocutory judgment above mentioned, given a description of his real estate, and has produced his titles thereto, a certificate of its hypothecary status and a certificate showing its value according to the municipal valuation;

“Seeing that the documents so produced have established the qualification and the sufficiency of the surety;

“Doth overrule and dismiss the preliminary objections raised by the respondent, with costs.”

Rochon & Champagne, for petitioner.

J. M. McDougall, for respondent.

SUPERIOR COURT.

SHERBROOKE, February 24, 1887.

Coram BROOKS, J.

Ex parte HENDERSON et al., Petitioners for Probate of Will.

Will—Signature of Witnesses.

Held:—*That when witnesses, called to attest the execution of a will, have not signed the same in the presence of the testatrix, at the time of the alleged execution, probate will be refused.*

PER CURIAM:—The petitioners represent that on the 18th January last, the late Emma Maud Webb (widow of the late William Gordon Mack), who subsequently died on the 4th February, 1887, made and executed