

is so stated in *Western National Bank of City of New York v. Perez Triana & Co.*, [1891] 1 Q.B. 304; and probably any agreement not to resort to our Courts, even when made abroad, would be regarded as against public policy and void.

The plaintiff's claim is exaggerated, and, I think, should be confined within the bounds indicated at the trial, namely, for the period between his dismissal and the date when he secured other employment, plus the \$8 due him on expense account: in all \$358. I think this should be with County Court costs and without a set-off.

BOYD, C.

FEBRUARY 28TH, 1913.

REICHNITZER v. EMPLOYERS' LIABILITY ASSURANCE
CORPORATION.

*Guaranty—Fidelity Bond—Defalcation of Employee—Parties—
Liability—Ascertainment of Amount—Reference—Costs.*

Action to recover from the defendant corporation, \$5,000 on a policy to guarantee the plaintiff against loss by reason of the default of his employee, the defendant Munns, and to have the policy reformed so as to express the true intent.

Sir George C. Gibbons, K.C., for the plaintiff.

T. G. Meredith, K.C., for the defendants.

BOYD, C.:—The justice of the plaintiff's claim commends itself; not so the defences raised by the corporation, which savour of technicality. For value paid by the plaintiff, the defendants (the corporation) undertake to guarantee the honest dealing of the defendant Munns in his conduct of the business of the plaintiff in Europe and at Berlin. The agent of the defendants who made the contract knew that the essence of the transaction was to protect the plaintiff, and that the Dressed Casing Company was substantially a synonym for the plaintiff, who had put all the capital in, and merely shared profits with his employee Munns to encourage him to greater exertion and faithfulness. The guarantee company had no reason to suppose or understand that their engagement was other than this.

The evidence leads me to believe that Munns has been guilty of considerable defalcation; the exact extent cannot perhaps be measured till the accounts are taken as to his interest in the