

1999

S.H. No. 156759

IN THE SUPREME COURT OF NOVA SCOTIA

**IN THE MATTER OF AN APPLICATION OF MICHAEL HUBLEY FOR
APPROVAL OF ADEQUATE SECURITY, PURSUANT TO S. 208(1)(c) OF
THE *MOTOR VEHICLE ACT***

DECISION

HEARD BEFORE: The Honourable Justice David W. Gruchy at Halifax, Nova Scotia
in Chambers

DATE(S) HEARD: June 17, 1999

DECISION DATE: June 17, 1999 (Oral)

**WRITTEN RELEASE
OF DECISION:** July 2, 1999

COUNSEL: Mark V. Rieksts
for the Applicant

GRUCHY, J.: (Oral)

This application is for approval of security pursuant to s. 208 of the *Motor Vehicle Act*. I will be refusing it. I will give reasons now.

The Statute requires that this application be supported by, amongst other things, a certificate of the Minister of Finance. There is no certificate from the Minister of Finance. What is before me is some sort of a certificate from the Deputy Registrar of Motor Vehicles. There has been a bond signed in the amount of \$3,500.00 and that is before me. But the file gives no real identification of the accident that gave rise to the cancellation of the applicant's permit. There is no identification of potential plaintiffs. Section 208(1) of the *Motor Vehicle Act* reads:

Where security is required to be given by any person pursuant to clause (a) of subsection 5 of section 231 or clause (a) of subsection 4 of section 232 it shall be given by the certificate of the Minister of Finance that the person named therein

...

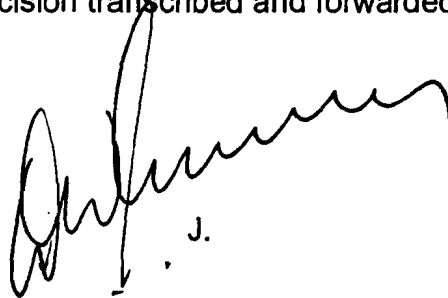
(c) has deposited with him a bond of guarantee or surety company in the amount fixed by the Registrar or a bond with personal sureties in the amount fixed by the Registrar approved as adequate security by a judge of the county court of the county in which the sureties reside.

That must read now the Supreme Court. I am left to wonder by the wording of that particular section as to whether I approve the adequacy of the security in relation to the seriousness of the accident about which I have very little information, or whether I am to approve the adequacy of the sureties. The section is not clear. Frankly I do not feel comfortable about either of the possible functions set forth by that section. My concern is strengthened by a reading of s. 209 which sets forth the purpose of the security, which is that it is to respond potentially to an action for damages resulting from bodily injury or the death of another person. That brings into question the adequacy of \$3,500.00 which is the

amount fixed by the Registrar. I have no idea whether that amount is sufficient. Accordingly this application will be refused.

I do not make this as a criticism of counsel. I believe the criticism should be directed to the system and the statute.

I will have a copy of this decision transcribed and forwarded to the Registrar.



A handwritten signature in black ink, appearing to be 'A. J.', with a small 'J.' written below the main signature.

