BRITISH COLUMBIA ADMIRALTY DISTRICT.

(*IN CHAMBERS.*)

MOMSEN.......... PLAINTIFF;

AGAINST

THE SHIP *AURORA*.

1913

Sept. 26.

Admiralty law Practice—Re-arrest of ship after judgment—Bail—Judgment—
Costs—Secs. 15 and 22 Admiralty Courts Act, 1861—Rule 39.

A warrant may be issued for the re-arrest of a ship, released on bail, to answer
the amount of the claim and costs for which judgment has been recovered
and remains unsatisfied.

APPLICATION for an order under rule 39 for a
warrant to issue for the re-arrest of the defendant ship.
She had been arrested and released under a bail
bond, and later judgment was recovered against her
with costs, but had not been paid though execution
had issued against the owner and sureties, and been
returned *nulla bona*.

The application was heard by the Honourable Mr.
Justice Martin, Local Judge, of the British Columbia
Admiralty District, in Chambers at Victoria, September
26th, 1913.

E. A. Lucas for the motion. On the facts proved I
submit the plaintiffs are entitled to the order—see
secs. 15 and 22 *Admiralty Courts Act*, 1861; *Williams*
& Bruce Ad. Prac., (1) The ship is still within the
jurisdiction available to all process of the Court.

MARTIN, L. J:—There does not seem to be any
valid reason why the order should not be granted.
In *The Freedom* (2) the ship was re-arrested to answer
the costs, though the damages had been paid to the full

(1) Pp. 480, 511-2.   (2) (1871) L.R. 3 Ad. & E., 495.

1913

MOMSEN
v.
THE SHIP
AURORA.

Reasons for
Judgment,

extent of the bail bond. Here nothing has been paid on either head, so I see no obstacle in the way. She can at least be arrested for costs, and there is nothing in *The Freedom* case to show that she should not be arrested to answer the judgment in the present circumstances; the reasoning, indeed, in that decision is all in favour of such a course, though because no one has appeared to present an argument in support of a contrary view I shall be prepared to listen to one should occasion arise.

Order accordingly.