

CARTWRIGHT, MASTER.

NOVEMBER 26TH, 1903.

CHAMBERS.

## FITZGERALD v. WALLACE.

*Security for Costs—Appeal to Court of Appeal—Application for Increased Security—Forum.*

Motion by adult defendants for increased security for costs.

D. W. Saunders, for applicants.

F. W. Harcourt, for infant defendants.

H. E. Rose, for plaintiff.

THE MASTER.—The action was dismissed without costs. The plaintiff has appealed to the Court of Appeal. The case has been set down, and \$200 paid into Court as security.

Mr. Rose objected that the motion could only be made to the Court of Appeal or a Judge thereof. I think this objection is entitled to prevail. Rule 830 (8) was relied on for the motion. But it seems clear that all the provisions of that Rule are to be governed by the first line, which says "where security is required under Rule 826 or 827." Now, both of those Rules confer jurisdiction only on the Judges of the Court of Appeal.

No such application, so far as I am aware, has ever been made, otherwise than as was done in *Centaur Cycle Co. v. Hill*, 4 O. L. R. 493, 1 O. W. R. 639. . . .

Motion dismissed with costs to plaintiff in any event.

This will not prejudice the renewal of the application, as was done in *Centaur Cycle Co. v. Hill*.

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FLYNN v. TORONTO INDUSTRIAL EXHIBITION  
ASSOCIATION.

*Pleading—Action for Personal Injuries—Negligence—Defective Construction of Machine—Defence that Defendants Insured against Accident—Irrelevancy—Striking out.*

The statement of claim alleged that the infant plaintiff was injured at the Dominion exhibition in September, 1903, while riding "in a machine known as a Razzle-Dazzle." The injury was alleged to have been the result of improper and defective construction of the machine. The 8th paragraph