

MACMAHON, J.

NOVEMBER 10TH, 1902.

CHAMBERS.

## STANDARD TRADING CO. v. SEYBOLD.

*Security for Costs—Præcipe Order for—Application for Increased Amount—Election.*

Appeal by defendants from order of local Master at Ottawa dismissing their application for an order requiring plaintiffs to give increased security for costs.

The plaintiffs are a trading company carrying on business in the State of New York. A præcipe order for security for costs was obtained by defendants under Rule 1199, and, instead of giving a bond for \$400, the plaintiffs paid \$200 into Court under Rule 1207.

The application for increased security was made after examinations for discovery, interlocutory applications and appeals, attendance of counsel at New York to take evidence under a foreign commission, etc., by which a large amount of costs was incurred.

The local Master considered that the defendants' taxable costs would by the time the case was tried amount to at least \$500, but he held them bound by their election to take the security obtainable under a præcipe order, relying on *Trevelyan v. Myers*, 15 C. L. T. Occ. N. 135, and *D'Ivry v. World Newspaper Co.*, 17 C. L. T. Occ. N. 82.

The Rule in force when these cases were decided was Rule 1250 of the Consolidated Rules of 1888: "The amount of security may be increased or diminished from time to time by the Court or a Judge."

The present Rule, 1208, is: "The amount of security, whether directed to be given by an order issued on præcipe or otherwise, may be increased or diminished from time to time by the Court or a Judge."

The Master thought the cases cited applied, notwithstanding the change in the Rule.

C. J. R. Bethune, for appellants.

G. E. Kidd, for plaintiffs.

MACMAHON, J.—By the terms of Rule 1208, the fact of the defendants having obtained a præcipe order by which a definite amount of security was provided for, bound them to no greater extent than if they had in the first instance made a special application for security. In either case the defendants must shew facts disclosing a proper case for increased security. . . . The Master having stated that defendants' costs will probably amount to \$500, and that the increase is largely due to plaintiffs' interlocutory motions and appeals,