

## TROWBRIDGE V. HOME FURNITURE AND CARPET CO.—MASTER IN CHAMBERS—MARCH 5.

*Security for Costs—Plaintiff Ordinarily Resident out of Jurisdiction—Temporary Residence in Jurisdiction—Con. Rule 1198(b)—Assets in Jurisdiction—Evidence—Admissions.*—Motion by the defendants for an order requiring the plaintiff to give security for costs, under Con. Rule 1198(b). The action, which was begun on the 10th February, 1913, was to recover \$50,000 damages for breach of an agreement between the parties to employ the plaintiff as manager of the defendant company. The agreement was dated the 4th July, 1912, and in it the plaintiff was described as "of the city of Toronto." He was to have full control of the business and receive a salary of \$50 a week. The engagement was to continue so long as the business shewed a net profit of at least ten per cent., and the plaintiff was to be entitled to one-half of any further profit. The motion was supported by an affidavit of the president of the defendant company, stating that the plaintiff came to the city of Toronto from Ohio, where he had always previously resided, and that he was informed by the plaintiff that his family still lived there, and that the plaintiff has no assets in Ontario exigible under an execution. The plaintiff said in answer that he was now, and was for some time prior to the commencement of the action, a resident of Toronto, where he intended and still intended to reside. He did not contradict the allegations as to his family being resident in Ohio, nor of his having no assets within the Province. Neither deponent was cross-examined. But, since the argument, a further affidavit was filed by the plaintiff's solicitor exhibiting two letters from the president of the defendant company, dated the 18th and 25th January, which contained expressions that might imply that there was something due to the plaintiff. All that was said was, "The adjusting of any sum that you are entitled to can be taken up at any time," in the first letter; and, in the second, "Just as soon as it is possible to get off balance sheet shewing state of affairs, we will arrange to settle with you." The Master said that these expressions were not such as that in *Stock v. Dresden Sugar Co.*, 2 O.W.R. 896. In answer to this, an affidavit of the president was filed, stating that, since these letters were written, he had made an examination of the company's books and affairs and was satisfied that the company had a counterclaim against the plaintiff which greatly exceeded any sum that might be owing to the plaintiff for his services, even if he was not disentitled by reason