

CARTWRIGHT, MASTER.

MAY 4TH, 1906.

CHAMBERS.

O'LEARY v. GORDON.

*Security for Costs—Several Defendants—Separate Orders—Practice—Increased Security.*

Motion by plaintiff to set aside a præcipe order for security for costs issued by defendant Kidd, notwithstanding that a similar order had previously been obtained by the other two defendants, and that plaintiff had, pursuant thereto, paid \$200 into Court, and notified all 3 defendants.

R. McKay, for plaintiff.

A. B. Armstrong, for defendant Kidd.

THE MASTER:—There should be an order analogous to that made in *Syracuse Smelting Works v. Stevens*, 2 O. L. R. 141. There the defendant who took out the second order had no notice of the previous order or of the payment into Court. But here the right course for defendant Kidd was to have moved for an order that the money paid in by plaintiff should stand for the benefit of all the defendants. He should not have issued the second order, and it should be discharged if plaintiff so desires.

Rule 1208 allows defendants to move for increased security when so advised, and leave so to do need not be reserved.

It was also argued that plaintiff had assets within the jurisdiction. This was not set up when the first order was taken out, nor do I think that the fact is established . . . . Daniel v. Birkbeck Co., 5 O. W. R. 757.

The order will be to set aside the præcipe order taken out by defendant Kidd, or declaring the same to have been satisfied, and providing that money paid into Court stand as security for the 3 defendants. The costs of the motion will be to plaintiff only in the cause.