

CARTWRIGHT, MASTER.

MAY 13TH, 1903.

CHAMBERS.

FULLER v. APPLETON.

Security for Costs—Several Defendants—Several Orders—Satisfaction by one Payment—Reservation of Right to Apply for Increased Security.

Motion by plaintiff for order directing that \$200 paid into Court by him be taken as a sufficient compliance with two orders for security for costs issued by the defendants, who appeared by two different solicitors.

J. B. O'Brien, for plaintiff.

A. C. Macdonell, for defendant Higbee.

Casey Wood, for the other defendants.

THE MASTER.—Defendants are prima facie justified in severing in their defences. From what appears in the affidavits and statement of claim it may well be that Higbee will claim indemnity from his co-defendants if plaintiff should succeed in his action. . . . I do not think that any other order can now be made (except with plaintiff's consent) than that which was made in *Edmunds v. Mabey*, 11 C. L. T. Occ. N. 177. . . . I have not found any case that adopts the view urged by defendants. No further security is usually given until the case is ripe for trial. . . . I only state the fact that generally \$200 is a sufficient security up to the commencement of the trial. The weighty observations of Meredith, J., in *Standard Mining Co. v. Seybold*, 5 O. L. R. at p. 13, must always be borne in mind. . . . If an application for increased security seems necessary, it will, no doubt, be made in due course. It will then be time enough to consider whether it should be granted and to what extent . . . and what disposition is to be made of the costs of such motion. The present order will be as asked for by plaintiff, and the costs of this application will be to plaintiff in the cause.

FERGUSON, J.

MAY 13TH, 1903.

TRIAL.

HOLT v. PERRY.

Executors—Specific Legacy—Right and Duty to Realize Security Specifically Bequeathed—Set-off of Statute-barred Debt Due by Legatee to Testator—Right of Retainer.

Marietta Gardner, who died 1st January, 1902, left a will whereby she made a gift to the plaintiff, her brother, in these