

case of the original defendants, but as to them the usual order for security for costs has been made against the absent plaintiff. The defendants are all in the same interest, and no further costs in the way of evidence need be incurred by the original defendants unless they insist on all the evidence originally given being given over again.

The Judge who tried the case as against the original defendants is not impressed with the merits of the defence, as he expressed himself at the hearing; so that no harm appears to be done to the original defendants by affirming the order of Britton, J.

MEREDITH, J.—We have conferred with the learned trial Judge as to matters which were left in doubt upon the argument, and he informs us that, upon speaking to the minutes of the order made at the trial, it was agreed, as he understood, that, although an application for security for costs might be made on behalf of the added defendants, there was to be no application for additional security to the original defendants; that the case is one in which, had additional security been sought as a term of giving leave to amend and of postponing the trial or otherwise, he would have unhesitatingly refused it; that the case is one in which the plaintiff is undoubtedly entitled to recover a considerable sum of money either from the original or the added defendants, the latter being largely interested in the former, the question being mainly, if not entirely, whether the incorporated company or its promoters, now large shareholders, are technically answerable for the debt; and that the further trial of the case was directed to be before him.

In these circumstances, the order in question, which was made by Britton, J., after a like conference with the trial Judge, cannot be disturbed; otherwise the Master's order would have been right. *Standard Trading Co. v. Seybold*, 1 O. W. R. 783.

Appeal dismissed; costs in the cause.

FEBRUARY 6TH, 1903.

DIVISIONAL COURT.

SALE v. WATT.

*Costs—Action by Solicitor to Recover—Reference in Action
—Costs of Action and Reference.*

Appeal by defendants from judgment on further directions pronounced by GARROW, J.A., sitting as a Judge of the