

I trust that for the sake of the comparatively small amount of costs involved, this case will not be a repetition of *Lee v. Lang*, 17 P. R. 203, 18 P. R. 1.

CARTWRIGHT, MASTER.

APRIL 21ST, 1903.

CHAMBERS.

DEVER v. FAIRWEATHER.

Security for Costs—Application for Increased Security—Inadequacy of Amount Fixed by Rules.

Motion by defendant for increased security for costs.

W. N. Ferguson, for defendant.

R. W. Eyre, for plaintiff.

THE MASTER.—The usual præcipe order for security for costs was issued on the 29th October last. This was complied with by plaintiff, who paid \$200 into Court. I think he cannot, therefore, now set up that he is possessed of property within the jurisdiction so as to absolve him from the necessity of giving further security. I think I must deal with the question, how much, if any, additional security should be given under the facts disclosed in the material.

The foundation of the practice of ordering security for costs would seem to be the right of a defendant to call upon a non-resident plaintiff for indemnity. In such a case the actor is seeking to use the Court to enforce some claim against the opposite party, while he keeps himself out of the jurisdiction. The defendant, then, being entitled to indemnity, is within his rights in asking to have a substantial and not an illusory security.

When the present sum of \$200 was settled as adequate, it was really so. Those were the days in which an eminent Toronto counsel was content with a fee of \$20 on a brief for a trial out of Toronto for a defendant railway corporation. . . . If counsel to-day of equal eminence were to be content with such charges, I fear that doubts would be entertained of their sanity. In view, then, of the great increase in the cost of litigation, it is right that a corresponding increase should be made in the amount fixed for security, where such security should properly be given.

Having regard to the affidavit filed by defendant in support of the application, which is not contradicted in any way, and in view of the case being ready for trial, I direct that plaintiffs do furnish additional security by paying into Court \$300 within ten days, with a stay of proceedings until this has been done.