

OSLER, J.A.

OCTOBER 19TH, 1903.

CHAMBERS.

## STANDARD TRADING CO. v. SEYBOLD.

*Security for Costs—Increase in Amount—Costs Thrown away by Postponement of Trial—Postponement Caused by Defendants' Amendment — Responsibility for Increase in Costs.*

Appeal by plaintiffs from order of local Master at Ottawa allowing defendants' application for increased security for costs.

The appeal was heard by OSLER, J.A., holding the Weekly Court and Chambers at Ottawa for a Judge of the High Court.

John T. C. Thompson, Ottawa, for plaintiffs.

C. J. R. Bethune, Ottawa, for defendants.

OSLER, J.A.—The plaintiffs are a foreign corporation, and, under a præcipe order for security for costs, paid into Court the sum of \$200. The action was proceeded with, and subsequently an order was made by MacMahon, J. (1 O. W. R. 724 5 O. L. R. 8), affirmed by a Divisional Court (1 O. W. R. 783, 5 O. L. R. 8), for the payment into Court of \$300 by way of further security. Afterwards, a commission was issued to take evidence in New York, and the Master made an order to pay into Court as additional security \$100 more.

The case came down for trial, and the defendant Booth then applied for liberty to amend his pleadings. Leave to amend was granted, and plaintiff not being prepared to proceed on the amended record, the trial was adjourned.

The Master has now made another order staying the proceedings until the plaintiff shall have paid into Court or otherwise given further security to the amount of \$600. This is the order complained of.

From my point of view such an order is wholly unreasonable. I am aware that the practice on the subject of granting additional security has been relaxed by the modern rules; but I do not think it admits of a plaintiff being checked at every stage of the action by ordering security, dollar for dollar, for all costs incurred, or which by possibility may be incurred, without regard to the conduct of the party.

Here it is quite plain that the costs of the trial have been thrown away mainly by reason of the defendants having insisted upon being allowed to amend their pleadings, or having deemed it prudent at the last moment to do so, when