

MASTER IN CHAMBERS.

MARCH 14TH, 1913.

BISHOP CONSTRUCTION CO. v. PETERBOROUGH.

4 O. W. N. 946.

Costs—Security for—Foreign Company in Liquidation—Amount of.

MASTER-IN-CHAMBERS where the plaintiff company whose head office was in Montreal had gone into liquidation in the Province of Quebec made an order for \$1,000 security for costs by bond or by the payment of \$500 into Court within four weeks in an action for \$23,524.94, alleged balance due under a contract with defendants a municipality.

Toronto Cream & Butter Co. v. Crown Bank, 9 O. W. R. 718, followed.

Motion for an order for security for costs.

J. Grayson Smith, for the motion.

Tisdall (C. & H. D. Gamble), for the plaintiff company.

This action was commenced on 10th April, 1912, to recover \$23,524.94 from the city of Peterborough, for extra work done on a dam, under a contract with the defendant.

On 30th May, the city delivered its statement of defence, alleging therein, among other things, that the Water Commissioners of the city were necessary parties.

On motion, an order to that effect was made on 24th September, and 3rd October, 1912, their statement of defence was delivered.

The plaintiff company has its head offices at Montreal—and on 30th September last, went into liquidation. About the same time, the liquidators appointed a new solicitor, as the former solicitor had retired from practice. An order to that effect was taken out on 12th February, 1913. The present solicitor then wrote to defendants' solicitors. From those letters, they learnt for the first time, that the plaintiff company was in liquidation. Thereupon they made this motion for an order for security for costs, if the action was allowed to proceed.

The facts of the present case are, at least, as favourable to the motion, as were those in the case of *Toronto Cream and Butter Co. v. Crown Bank*, 9 O. W. R. 718.

Here, the liquidation is proceeding in another province, and the defendants are not creditors of the company, nor