

HON. MR. JUSTICE MIDDLETON.

APRIL 21ST, 1913.

BADIE v. ASTOR.

4 O. W. N. 1180.

*Costs— Security for—Motion for Further—Special Circumstances—
—Order for \$200 Additional Security.*

MASTER-IN-CHAMBERS, 24 O. W. R. 147, 4 O. W. N. 880, refused to order further security for costs in an action where the costs incurred up to the date of the motion were amply secured by the original bond given for security.

Stow v. Currie, 13 O. W. R. 997, followed.

MIDDLETON, J., on appeal ordered \$200 additional security where the action had progressed to exceptional lengths and the plaintiff was already liable for certain costs in any event of the action.

Appeal from an order of the Master in Chambers, *ante* 147, refusing further security for costs.

G. H. Kilmer, K.C., for the defendant.

R. McKay, K.C., for the plaintiff.

HON. MR. JUSTICE MIDDLETON:—The matter has been standing for some time as the defendant's solicitor asked leave to file a further affidavit, and the plaintiff's counsel now notifies me that he does not desire further argument.

The security given, when required by our practice, ought to be adequate, but great care must be taken to avoid the requirement being oppressive. Four hundred dollars mentioned in the rules must be regarded as adequate for any normal action. In this case the appeal from the judgment and the reference then ordered in lieu of a new trial are beyond the ordinary course and I think justify an order requiring \$200 further security. The costs of the first trial and appeal are payable by the plaintiff in any event of the cause and so are taken out of the general costs of the cause. The order, on this new material, will be made for the \$200 further security and costs here and below will be in the cause.