

this action, and it will therefore be necessary for the latter to prove his status. On the other hand, plaintiff, with comparative moderation, avers that he will require several (9, I think) witnesses, who all reside in Toronto, to prove his case. Probably defendant will be willing to make such admissions in regard to publication and circulation as will render most of these unnecessary. This will reduce the 9 to 3 or 4. . . . Plaintiff is also willing to pay any extra expense occasioned to defendant by the trial taking place at Toronto. Defendant makes a similar offer, if the motion is granted. . . .

Plaintiff and his solicitor swear "that articles of an inflammatory nature denouncing John J. Daly and contracts which he obtained from the farmers have been published in the Plattsville newspaper having a large circulation throughout the county of Waterloo." This fact is not in any way denied by defendant. I think that it may not unfairly be said that this is likely to cause serious prejudice to plaintiff, and that he certainly should not be compelled to have his action tried at Berlin.

I therefore dismiss the motion, with costs to plaintiff in the cause; plaintiff undertaking to pay such amount as the trial Judge may consider reasonable to meet the extra expense (if any) caused by the trial taking place at Toronto, as was first ordered in *McArthur v. Michigan Central R. Co.*, 15 P. R. 77.

FALCONBRIDGE, C.J.

MAY 2ND, 1903.

WEEKLY COURT.

EDGEWORTH v. EDGEWORTH.

Judgment—Default—Opening up—Terms—Alimony.

Appeal by plaintiff from order of local Judge at Windsor setting aside judgment for plaintiff by default in an action for alimony and allowing defendant in to defend.

C. A. Moss, for plaintiff.

S. White, Windsor, for defendant.

FALCONBRIDGE, C.J.—The excuses given by defendant for his acts of default or omission are unsatisfactory. There is no slip or mistake of a solicitor, but only the client's ignorance and neglect. The terms upon which relief was granted to defendant (payment of costs and an early trial) are insufficient, and the additional term of payment, within the time limited by the order, of \$100 by defendant to plaintiff to enable her to prepare for trial, and of the costs of this application (fixed at \$10), should be imposed. Should there be any question of jurisdiction of the local Judge, or if for any other reason it is so desired, his order as varied may be treated as a substantive order made by me.