plaintiff makes a counter-affidavit shewing a larger number in another place, and when the trial comes off the witnesses do not materialize, to use the common phrase, or else are called for no reason except that they have been named as witnesses at an earlier stage."

Hence, such a sceptical attitude of the court as that expressed in Armour, C.J.'s remark (*u*), that "these statements about the witnesses are generally not reliable. The party that swears last swears to the most witnesses"—and the difficulty of deciding upon the contradictory affidavits so as to do justice between the parties.

In a case where he did not consider that it really mattered a straw, so far as expense went, at which of the places named the action was tried, and where the considerations in favour of leaving the venue where the plaintiff had laid it were that the case would be sooner tried there, and the value to be attached to the legal right of the plaintiff to lay the venue where he pleases. Boyd, C., met this difficulty of deciding upon the contradictory affidavits by refusing (*v*), to interfere at all, and leaving it to the trial judge to apportion the costs if it appeared to him that the plaintiff's choice of a place of trial had put the defendant to an undue and disproportionate expense.

The same consideration of a speedier trial of the action at the place named by the plaintiff and also those of a possible need of a view by the jury and of the cause of action having arisen in the county in which the plaintiff had laid the venue, are noticed in MacMahon, J.'s judgment (*w*), on an appeal from the order of the Master in Chambers refusing to change the venue from Pembroke to Toronto in a County Court action for damages for breach of contract; where the plaintiff swore to eight witnesses, seven of whom resided in Pembroke, and one at Port Arthur; while the defendant, in his affidavit, claimed to have sixteen witnesses, all of them residing in Toronto.

In discussing the appeal, MacMahon, J., said in part: "I follow the Chancellor in *McArthur* v. *Michigan Central R.W. Co.*, 15 P. R. 77, by leaving the trial judge to apportion the costs if he sees fit." Armour, C.J., delivering the judgment of the Queen's

(*u*) *Greey* v. *Siddall*, 12 P.R., at p. 559.

(*v*) *McArthur* v. *Michigan Central R. W. Co.*, ubi sup.

(*w*) *McAllister* v. *Cole*, 16 P.R., at p. 108.