

To meet any question of extra costs, Mr. Cameron has consented to the usual provision that these shall be borne by plaintiffs in any event, as a term of the dismissal of the motion, or he will agree to the allowance of the motion if defendant will waive his jury notice. Defendant is not willing to give any consent to either of these propositions.

The case must be dealt with as if the venue had been laid at Milton under Rule 529 (b) and plaintiffs were asking to have it changed under cl. (d). The question, therefore, is, whether they have made out "the very strong case" said in *Pollard v. Wright* to be necessary. The onus is clearly on plaintiffs, and I cannot say that they have satisfied it. The county of Halton has a population of nearly 20,000. Of these at least some hundreds must be qualified as jurors, and it can scarcely be presumed that twelve men cannot be found who will pay attention to their oaths to give a true verdict according to the evidence.

In any case plaintiffs can move before the trial Judge to dispense with the jury, and in a proper case this will doubtless be done.

As to the necessity of examination of the bank's books and officers and any inconvenience resulting to them from being required to attend at Milton, I would refer to *Standard Drain Pipe Co. v. Town of Fort William*, 16 P. R. 404. . . .

The venue must be changed from Toronto to Milton. Costs to defendant in any event, because the naming of Toronto as the place of trial in the writ of summons was a violation of Rule 529 (b), which was not in any way caused by anything said by defendant's solicitor.

MACMAHON, J.

JUNE 30TH, 1903

CHAMBERS.

RE WARBRICK AND RUTHERFORD.

*Landlord and Tenant—Overholding Tenants Act—Proceedings under
—Motion for Prohibition or Certiorari—No Writ of Possession
Issued.*

Motion by H. A. Rutherford for an order requiring the Judge of the County Court of Peel to send up the papers in a certain proceeding before him under the Overholding Tenants Act begun by J. F. Warbrick, as landlord, against the applicant, as tenant, and also for an order for prohibition to the Judge, Warbrick, and the sheriff of the county of Peel, to prohibit them from taking any further proceedings under the order of the Judge of 23rd July, 1902, directing a writ