

BRITTON, J.:—Plaintiff resides at Bayfield, county of Huron. His son George, as a fisherman, was in the employ of defendants on their fishing tug "Star." On 19th November last, on Lake Erie, about 4 miles from Port Burwell, a large wave struck this tug, washed George overboard, and he was drowned. Negligence is charged against the defendants, in sending the boat out in such rough weather as prevailed that day, and in not having the boat properly equipped for the work.

The defendants ask to have the venue changed, 1st, because they think they are not likely to get a fair trial at Goderich. That argument was fully met. There is no sufficient reason shewn why there should be any apprehension of any favour to the plaintiff or prejudice against the defendants at Goderich. If the case is tried by a jury, the defendants by their right of challenge can in the large county of Huron probably have no juror upon the trial of this case who ever heard of it before the opening of the sitting of the Court.

The second ground is saving of expense and because of convenience.

The defendants name, in the affidavit of Mr. Boyd, 19 witnesses likely to be required at the trial, and other persons are named in a supplementary affidavit as likely to be required.

The plaintiff names 19 or 20 persons whom he says he will require.

It will be a matter of surprise if either calls half the number named.

The defendants evidenced the most perfect good faith in making the liberal offer of advancing, at once, to the plaintiff's solicitor a sum sufficient to pay the difference in the expense of plaintiff's witnesses to St. Thomas instead of to Goderich, if plaintiff would consent to go to trial at St. Thomas. I regret that plaintiff's solicitor did not see his way to accept this offer.

The plaintiffs must necessarily, as it appears to me, have some witness or witnesses from Port Burwell. The burden of proof is upon him and he accepts it, and now there is no middle way open. I must follow as well as I can the decided cases. It is of course "well settled practice" that the