

Sir Henry Smith, Q.C., at one time Speaker of the old Parliament of Upper and Lower Canada, was counsel for the defendants. The evidence at the trial was strongly in favour of the plaintiff as was also the judge's charge, but Sir Henry Smith was so popular with the jurors that he obtained a verdict for the defendants. The verdict was set aside and a new trial ordered with the same results. On the third trial of the action a juror who was so obnoxious to the plaintiff that he would have been challenged if he had been called by his right name took his place in the jury-box when another juror was called, and he was sworn on the jury. The fraud was not discovered till the second day of the trial, the plaintiff let the trial go on, after he discovered the fraud and speculated upon the chance of a verdict. But Sir Henry Smith again prevailed, and the defendants had a third verdict. The court, while refusing to grant a new trial on the ground of the irregularity in constituting the jury, set aside the verdict and granted a new trial on the evidence. The trial judge for Frontenac Assizes refused to try the action in the county of Frontenac on account of the three perverse verdicts that had already been rendered.

Application was then made to change the venue to Toronto. The defendants opposed this and claimed that the trial should take place in Hastings, the adjoining county. The Order was made for changing the place of trial to Toronto although the venue was local, but subject as to terms as to expense. See *Ham v. Lasher*, 10 U.C.L.J., p. 74, also 24 U.C.Q.B. p. 533, in a note to *Widder v. Buffalo and Lake Huron Ry. Co.*, a somewhat similar case. The case came on at Toronto. The jury was called and after being sworn, counsel for the plaintiff addressed the jury. After he had been speaking for about half of an hour in the old Adelaide St. Court-room, the room being warm and close, one of the jurymen who had been slumbering suddenly awoke; and immediately he requested the learned counsel to cease his talk and sit down, saying that the jury "had had enough of it." There was some excitement when it was discovered