

admit (para. 12) that he will probably have some witnesses resident in Toronto, but does not say how many.

The affidavit in reply filed by plaintiff's solicitor (para. 3) seems to confirm the view that Toronto was the place where the business between the parties was carried on.

On the argument I suggested that the matter might be settled by the plaintiff undertaking to bear any extra expense of the trial at London. But this was not acceded to. On the other hand, the counsel for defendant was willing to do this.

Having regard to the order of the Chancellor in *McArthur v. Michigan Central R. W. Co.*, 15 P. R. 77, with the reasons for same, and referring to what I said in *Meiers v. Stern*, 2 O. W. R. 392, as to the little weight to be attached to affidavits on motions of this character, I think the order may go; but it is not to issue except on the undertaking of the defendant's solicitor on his client's behalf to bear the extra expense of a trial at Toronto, and on payment into Court of \$100 to meet such extra cost.

The costs of the motion will be in the cause.

In all these cases the question where the alleged cause of action arose is still of importance. It has not now the same weight as in the days of the Common Law Procedure Act: see *Harper v. Smith*, 6 P. R. 9. But it is still useful in deciding where the general convenience requires the action to be tried. And this matter of convenience is, in my view, one of the "substantial grounds" spoken of by Mr. Justice Osler in *Campbell v. Doherty*, 18 P. R. at p. 245, on which there may be a change of venue. This would be more influential in cases like *McDonald v. Park*, 2 O. W. R. 812, or where the plaintiff is claiming under the Workmen's Compensation Act or otherwise for injury. This principle seems to be recognized by sec. 104 of the Ontario Judicature Act in the case of actions against municipal corporations. It would also seem to be the foundation of present Rule 529 (b).

FALCONBRIDGE, C.J.

OCTOBER 20TH, 1903.

#### TRIAL.

#### SCOTT v. TOWNSHIP OF ELLICE.

*Public Schools — Collection of Rates—Protestant Separate School—School Building — By-law—Petition—Status of Plaintiff.*

Action for a declaration that it was and is the duty of the defendant corporation to correct alleged errors or omissions made in the collection of the rate imposed for public school purposes for the year 1902, and for a mandatory order upon defendant corporation to take all necessary steps to correct