

On the other hand, the cross-examination of the plaintiff has not in any way shewn that he will not require the witnesses he has deposed to as necessary, or that it would be more convenient to have the trial at Sault Ste. Marie than at Sandwich.

I therefore think that the motion cannot succeed, and that if the defendants are really being injured, they must be left to apply to the trial Judge for such direction as to costs of the witnesses as he thinks proper after hearing the evidence.

I was asked to postpone the trial until the non-jury sittings, on the ground of delay in bringing on the motion. This, however, was in the hands of the defendants, and they might have guarded themselves on this point if they so desired. It will be far more convenient and less expensive to go from Sault Ste. Marie to Sandwich on the 14th instant than on 17th December, at the non-jury sittings. In any case the defendants must be left to make a substantive motion if they so desire. The plaintiff is not in any default so as to make it right to postpone the trial against his will. Perhaps on application he will consent.

The case set up by the plaintiff does not require any view of the work on the ground. The defence, on the other hand, might wish that the Judge should have the opportunity, if he thought it useful, of inspecting the pavements, assuming that they are not covered deep with snow in the middle of December, the assizes at Sault Ste. Marie being fixed for the 10th of that month.

The motion must be dismissed with costs in the cause.

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OCTOBER 4TH, 1907.

DIVISIONAL COURT.

MAXON v. IRWIN.

*Appeal to Divisional Court—Appeal from Judgment of Division Court — Time — Division Courts Act, sec. 158—Time when Decision Notified to Parties — Promissory Note — Alteration — Word “Renewal” in Margin Erased — Material Alteration — Bills of Exchange Act, sec. 145 — Alteration not Apparent — Holders in Due Course — Payment According to Original Tenor.*

Appeal by plaintiffs from judgment of junior Judge of County Court of Essex in favour of defendant in an action