

of issue was delivered on 1st November, and jury notice next day.

D. D. Grierson, for the motion.

W. Douglas, for the defendant Gormley.

Wm. Laidlaw, K.C., shewed cause.

CARTWRIGHT, K.C., MASTER:—I do not think the motion can succeed.

In the first place it is made too late especially as a speedy trial is very important for the plaintiff.

On the 7th November an order was made for a commission to take evidence in Saskatchewan, of witnesses on behalf of all parties, and it was expressly agreed that it should be executed in week commencing 18th inst., and leave not later than 23rd, so as to be in time for the Milton sittings, which commence on 2nd December. If any motion was to be made to change the place of trial it should have been made then. In addition to this perusal of the pleadings shews that the only issues are as to the alleged misrepresentation and warranty and the character of the horse in question. All that can be found only in Saskatchewan, except the evidence of the defendants themselves and of the plaintiff, who is said to be on his way for the trial, or to have made arrangements to do so.

It was also urged in the affidavit in support of the motion that plaintiff's counsel had such influence in the county of Halton, that a fair trial could not be had. This ground, however, was not pressed on the argument. It is only noticed in order to refer to the cases of *Oakville v. Andrew*, 2 O. W. R. 608; and *Brown v. Hazeel*, ib. 784, where analogous objections were not given effect to.

In any case it would only afford ground for applying at the trial to dispense with the jury. The motion will be dismissed with costs to plaintiff in the cause as against the moving defendants.

It should have been noted that plaintiff will also require witnesses resident in the county of Perth to shew the deficiency in breeding qualities of the horse, which had been sold to a resident of that county before being sold to the plaintiff. For such witnesses Milton would be much more convenient than Whitby.