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## *CHANGE OF VENUE ON DEFENDANT'S APPLICATION.*

As appears from the cases collected in a previous article (*a*), Sir Matthew Cameron's view (*b*), that the Judicature Act has accorded to the plaintiff the clear right of selecting the place of trial, is now established.

By the same decisions and those therein cited, the following general procedure governing a defendant's application to displace the plaintiff's right is also established, instead of those "most unsatisfactory" (*c*), ever changing rules as to the place where the cause of action arose and as to preponderance of convenience and expense, which made it so difficult to deduce from the decided cases the principles guiding our courts in disposing of such applications:

A decision respecting change of venue, in either High Court or County Court actions (*d*), no longer turns on the mere fact of where the cause of action arose (*e*). That fact is, however, taken into account somewhat in determining the balance of convenience and expense; the consideration of expense being embraced in the investigation of the question of convenience (*g*), as thus explained by Boyd, C. (*h*). "The facts in each case are to be considered, but it is a safe general rule that the venue will not be changed unless the defendant shews that some serious injury and injustice to his case will arise by trying it where the plaintiff proposes to have it tried. . . . The question of injury is one of degree, in which the elements of expense and convenience are to be considered."

(*a*) 37 C.L.J. 831.

(*b*) *Davis v. Murray*, 9 P.R., at p. 227.

(*c*) *McArthur v. Michigan Central R. W. Co.*, 15 P.R. 77.

(*d*) *Hicks v. Mills*, judgment of Chancery Divisional Court, in March, 1898, affirming Master in Chambers and Street, J.'s orders (unreported).

(*e*) *Walton v. Wideman*, 10 P.R. 228; *Halliday v. Township of Stanley*, 16 P.R. 493; *Berlin Piano Co. v. Truaisch*, 15 P.R., at p. 71.

(*g*) *Davis v. Murray*, *ubi sup.*

(*h*) *Dowie v. Partle*, 15 P.R. 313.