

greater number of the defendant's witnesses lived in the country, where the premises were situated, and that a view would be necessary. In answer, the plaintiff filed affidavits stating that more of his witnesses lived in London, where the venue was laid, than in the country, and that it would be less expensive to plaintiff to try the action where the defendant suggested than where the venue was laid. In addition, counsel for plaintiff attempted to shew that the cause might be as well tried with the aid of a map as by a view. The court, however, "considering that a view would be desirable in this case for the furtherance of justice, made the rule absolute, on the defendant's undertaking to have a view, and to admit the lease."

But the argument that a view is proper to be had must stand the test of a close enquiry.

Thus, it was not strong enough to cause the Master in Chambers to grant the defendant's application for change of venue in an action against a township for damages sustained by the plaintiff by reason of an accident caused by plaintiff's falling into a hole on a street in an unincorporated village; on which motion both the clerk of the township and its solicitor stated on oath that it would be of the utmost importance that the jury should be allowed to inspect the spot and the highway, while the plaintiff's solicitor, in answer, swore that the place of the accident was seven miles from St. Thomas and that even if the venue was changed to that city, from London, the place where the injury occurred was not then in the same condition as when the injury was sustained, and that a personal view of the spot would make no difference and throw no additional light upon the evidence even if the jury were directed to inspect the same, since the evidence could be easily understood and made perfectly clear to the jury without a personal inspection of the spot, especially if, as he intended to do, a diagram were placed before the jury at the trial (*f*).

So, also, will the venue be changed in such a case as where the subject matter of the litigation is in the nature of a fixture which should be inspected and cannot be forwarded to the place of trial selected by the plaintiff without so unduly increasing the expense as to cause injustice to defendant.

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(*f*) *Flood v. Township of Southwold*, judgment dated September 14th, 1892, (unreported).