county to which the party applying proposes to change the venue. Of course these affidavits are open to an answer by the other party. In all cases, the court or judge will decide, after hearing both sides, whether the venue is to remain, or be changed as prayed, or be laid in some third county, according to the discretion of the court or judge (per Pollock, C. B., in *De Rothschild* v. *Shelton*, 8 Ex. 503); and the court will in general refuse to review the exercise of the judge's discretion (*Scoble* v. *Henson*, 9 U. C. L. J. 131; *Begg* v. *Forbes*, 13 C. B. 614; *Cartwright* v. *Frost*, 3 H. & N. 278; *Schuster* v. *Wheelwright*, 8 C. B. N.S. 383; *Penhallow* v. *Mersey Dock Co.*, 29 L. J. Ex. 21.) Where a judge made an order to change the venue on a special affidavit showing a *prima facie* case, it was said that the proper course of the opposing party was, not to move to rescind the order, but to apply at Chambers on a counter-affidavit to bring back the venue. (*Brown* v. *Clifton*, 10 W. R. 86; see also *Cull* v. *The Hull Dock Co.*, 11 W. R. 284.)

If defendant be under terms to take short notice of trial, he cannot move on the common affidavit, but may do so on a special affidavit. (*Clulee* v. *Bradley*, 13 C. B. 604; *Jackson* v. *Kidd*, 8 C. B. N. S. 354.) In *Helliwell* v. *Hobson*, 3 C. B. N. S. 761, it was held that the court will not deprive the plaintiff of the right to lay his venue where he pleases, unless there be a manifest preponderance of convenience in a trial at the place to which it is sought to change the venue; and in *Durie* v. *Hapwood*, 7 C. B. N. S. 837, Willes, J., referring to that case, is reported to have said, "When the question arises again, perhaps that case may require some consideration." But the rule laid down in *Helliwell* v. *Hobson*, does not appear to have been successfully impeached in any subsequent case. (See *Moore* v. *Boyd*, 1 U. C. L. J. N. S. 184.) If it be made to appear to the satisfaction of the court or judge that there will be a great waste of costs in the trial of the cause at the place where the venue is laid, and much saving of costs at the place where it is sought to change the venue, the change will in general be made. (*Ib.*; see also *Channon* v. *Parkhouse*, 13 C. B. N.S. 341.) But twenty-five witnesses and a horse on one side, against ten witnesses on the other, was held not to be such "a preponderance" as to induce the court to bring back the venue from the place where the cause of action, if any, arose. (*Blackman* v. *Barnton*, 15 C.B.N.S.434.)

It is not a sufficient cause for change of venue, that either party has retained the most eminent counsel on the circuit, unless done oppressively. (*Curtis* v. *Lewis*, 12 W.R. 951.) Nor is the fact that one of the parties to the suit is a member of Parliament, supposed to have considerable influence in the county where the venue is laid, any ground for change of venue. (*Salter* v. *McLeod*, 10 U.C. L.J. 76.)

The occurrence of an accident preventing the trial of the cause in the county where the venue was laid, coupled with other special circumstances, was held sufficient reason for a change of venue at the instance of plaintiff (*McDonell* v. *Provincial Insurance Co.*, 5 U.C. L. J. 186), especially where shown that the recovery of the debt would be endangered by delay (*Mercer* v. *Vought et al*, 4 U. C. L. J., 47; *Bleakley* v. *Eastin*, 9 U. C. L. J. 23; *Lucas* v. *Taylor*, 4 U. C. Prac. R. 99.)

The change may be ordered on special terms as to payment of witnesses, &c., either on application of plaintiff or defendant. (See *Municipal Council of Ontario* v. *Cumberland*, 3 U. C. L. J. 11; *Ham et ux.* v. *Lasher*, 10 U. C. L. J. 74.)

It has been held that the Crown, in revenue cases, has the right to lay the venue in any county it sees fit, and that no change can be made without the consent of the Attorney-General. (*The Queen* v. *Shipman*, 6 U. C. L. J. 19; see also *Attorney-General* v. *Crossman*, 1 L. R. Ex. 381.)

JUDICIAL FORM OF EXPRESSION.

There is much sound sense in the following observations of the late Chief Justice of the Supreme Court of the State of Georgia—delivered by him on refusing an application for a new trial made on behalf of a man who had been convicted of murder:—

"All the evidence shews a vicious and depraved propensity to take human life—for the preservation of which human laws are enacted."

"In this age of recklessness and terrible demoralization of men—if men sow the wind they cannot expect courts and juries to interpose and prevent them from reaping the whirlwind—they must eat of the fruit of their own doings. It has been said heretofore that, few cases of murder in the first degree, such as poisoning and private assassination were committed by our people. But