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MEREDITH, C.J.

DECEMBER 4TH, 1906.

CHAMBERS.

MONTGOMERY v. RYAN.

Jury Notice—Striking out—Separate Sittings for Jury and Non-jury Cases—Practice.

Motion by plaintiff to strike out the defendant's jury notice in an action upon a promissory note, in which the venue was laid at Toronto. The motion was addressed to the discretion of the Court, and was not based upon irregularity.

W. N. Ferguson, for plaintiff.

W. M. Hall, for defendant.

MEREDITH, C.J.:—I think the jury notice must be struck out. It is a matter of discretion whether it should be or not. While the practice where the venue is laid out of Toronto is not, except in very rare cases, to make an order in Chambers, but to leave the matter to be dealt with by the trial Judge, a different practice is adopted where the venue is laid where there are separate sittings for the trial of jury and non-jury cases, the latter practically a continuous sitting throughout the year; and in such cases, where the action is one that plainly ought to be tried without a jury, in order to prevent the jury list being incumbered with such cases, thereby involving a very considerable expense to the city, county, or province, because other jury cases would have to wait while such a case was being tried without a jury, the practice is to strike out the jury notice.