

THE
ONTARIO WEEKLY REPORTER.

(TO AND INCLUDING NOVEMBER 8TH, 1902.)

VOL. I. TORONTO, NOVEMBER 13, 1902. No. 38

FALCONBRIDGE, C.J. NOVEMBER 3RD, 1902.

WEEKLY COURT.

TORONTO GENERAL TRUSTS CORPORATION v.
CENTRAL ONTARIO R. W. CO.

Judgment—Consent—Sale of Railway—Petition to Open up—Conflicting Claims to Represent Railway Company—Issue Directed.

Petition by defendants to vacate a consent judgment pronounced in this action on the 27th May, 1902, for immediate sale of the company's railway, on the ground that the judgment was fraudulent and collusive, and the alleged consent upon which it was entered was fraudulent and collusive, and was not the real consent of defendants.

W. Barwick, K.C., and J. H. Moss, in support of the petition, claiming to represent the defendants.

W. R. Riddell, K.C., and R. McKay, opposing petition, also claiming to represent defendants.

D. L. McCarthy, for plaintiffs.

FALCONBRIDGE, C.J.—The order of Meredith, C.J., of 17th October, 1902, if it does not in terms authorize the presentation of this petition, quite clearly leaves the door wide open for its admission. It was conceded that a Judge in Court could not dispose, upon affidavits, of the weighty and complicated questions arising upon the petition, and the only course is to direct an issue wherein all matters in question may be determined, including the status of the different sets of claimants for the right to control the affairs of the defendant company generally, and in particular these proceedings. An order will go directing the trial of an issue at the next non-jury sittings for the county of York. The plaintiffs, being trustees, must be protected as to costs and in every other way. Usual direction as to costs.