

stand the cases, no such duty exists, and therefore the order should not have been made, and must now be set aside and the action dismissed, and with costs if defendants think it worth while to ask for them.

MABEE, J.

OCTOBER 22ND, 1906.

CHAMBERS.

REX v. TORONTO R. W. CO.

*Criminal Law—Indictment of Electric Railway Company—Nuisance—Endangering Safety of Public—Removal from Sessions into High Court—Difficult Questions of Law—Delay of Trial.*

Motion by defendants to remove an indictment of defendants for a nuisance from the York General Sessions into the High Court.

H. H. Dewart, K.C., and D. L. McCarthy, for defendants.

H. L. Drayton, for the Crown.

MABEE, J.:—The affidavit upon which the motion is made sets forth that nice and intricate questions of law will arise upon the trial; and, from the discussion of the case before me, it was apparent, I think, that such will be the case. It is not needful that those questions be anticipated or any expression of opinion made with reference to them; it is sufficient that the Court is satisfied that they exist: Short and Mellor's Practice, p. 96.

In the car fender case, Rex v. Toronto R. W. Co., 4 O. W. R. 277, the Court made an order similar to that asked here.

No reason was suggested by counsel for the Crown why the case should not be tried in the High Court; it can be tried at the Assizes some two months earlier than at the Sessions, and, if the alleged nuisance endangers public safety, as is alleged, it is desirable that there should be no delay in having the facts investigated.

The order may go as asked for the removal of the proceedings into the High Court.