

HON. MR. JUSTICE RIDDELL:—In April, 1908, an agreement in writing was entered into ostensibly between the Estate of Thos. Mackie and the Little Sturgeon River Slides Co. for the estate to do certain driving of timber over the works of the company; the company to pay for certain improvements to be made by the estate "and in case of dispute the value thereof shall be settled by arbitration under the provisions of the Timber Slide Companies' Act." This agreement was signed by one H. T. Mackie purporting to act for the Mackie estate and "J. R. Booth per Wm. Anderson, for and on behalf of the Little Sturgeon Timber Slide Company, Limited."

May 2nd, 1912, the estate, by their solicitor, served notice of the appointment of V. as their arbitrator, calling upon the company to name another arbitrator.

The company repudiate the execution of the agreement and say Anderson had no authority to sign it or to make any such agreement for the company. Booth denies all knowledge of it.

A motion is now made for an order setting aside and discharging the notice appointing an arbitrator upon the grounds: (1) that there is no statutory or other authority for the serving of the notice; (2) that the alleged agreement was not made by the company "or at all events the same is *bona fide* in dispute and until the same has been admitted or duly established by process of law to be binding on the said company, the said notice and the proceedings contemplated by the said notice are premature and incompetent" (whatever that may mean); (3) that the company never went into possession.

I asked how I had any jurisdiction in the matter and 9 Edw. VII. ch. 35, sec. 5 was referred to, "a submission unless a contrary intention is expressed . . . shall have the same effect as if it had been made an order of Court." But this applies to an actual submission, not to a document which may or may not be a submission. If upon the application of the company I were to act upon this section, the order would operate as an estoppel against their questioning the document as their submission. This the company do not want—and I accordingly do not act upon this section.

The Timber Slides Act, R. S. O. 1897, ch. 194, secs. 24-35, does not advance matters.