

determined in any lawful way they see fit to provide for, and this in no way shifts the clearly defined boundary line between valuation and arbitration; but if they provide for all the incidents of an arbitration it becomes an arbitration. Nowhere perhaps is this distinction more pointedly expressed than by Chief Justice Cockburn in *Re Hopper*, at p. 372, where he says: "I am not disposed to quarrel with the cases of *Collins v. Collins* and *Bos v. Helsham*, looking at the facts upon which they were decided; but I think they must not be taken to comprehend every case of compensation or value; as where in ascertaining the value of property or amount of compensation to be paid, the matter assumes the character of a judicial enquiry, to be conducted upon the ordinary principles upon which judicial enquiries are conducted, by hearing the parties and the evidence of their witnesses. If it be the intention of the parties that their respective cases shall be heard, and a decision arrived at upon the evidence which they have adduced before the arbitration, it would be taking too narrow a view of the subject to say that, because the object to be arrived at was the ascertaining of the value of property, or the amount of compensation to be paid, the matter was not properly to be considered as one of arbitration." This statement is quoted with approval by Lord Coleridge in *Turner v. Goulden* (1873), L. R. 9 C. P. 57, at pp. 59, 60.

An arbitration is a judicial or quasi judicial proceeding, a trial out of Court, a substitute for the ordinary method of trial. In *Wadsworth v. Smith* (1871), 6 Q. B. 332, Cockburn, C.J., at p. 336, says: "I am of opinion that in sec. 17 (similar to sub-sec. (d) of sec. 2 of our Arbitration Act) but 'an agreement or submission to arbitration by consent' is meant an agreement by which it is intended by the parties that the matter shall be submitted to a judicial enquiry before a person chosen between them instead of being left to the ordinary proceedings of a Court of law, and not merely left to the uncontrolled and off hand decision of some architect or surveyor to be appointed by one of the parties only." In these trials by laymen judicial rules of procedure may be relaxed, but must not be ignored. There must be substantial compliance with the fundamental principles of investigation adopted by the Courts. Prominent among these are the rules governing the production of evidence. *Enoch & Zaretsky Bock & Co.*