

case a specimen should be given to the accused in order that he might have an independent analysis.

Order made quashing the conviction with costs; the order to contain a clause protecting the magistrate.

FALCONBRIDGE, C.J.K.B., IN CHAMBERS. FEBRUARY 12TH, 1916.

RE ACTON TANNING CO. AND TORONTO SUBURBAN
R.W. CO.

Railway—Expropriation of Land—Compensation—Application for Appointment of Arbitrator—Jurisdiction—Forum—Suggested Agreement as to Compensation—Opportunity to Establish—Appointment for Cross-examination of Officers of Claimant Company.

Motion by the Acton Tanning Company, claimant for compensation, to set aside an appointment for the cross-examination of the president and vice-president of the claimant company; and (2) for the appointment of an arbitrator to determine the compensation or damages.

H. M. Mowat, K.C., for the claimants.

W. N. Tilley, K.C., for the railway company.

FALCONBRIDGE, C.J.K.B., said that at the present stage of the proceedings, and on the material presented, the attempt to cross-examine the officers of the claimant company as to a supposed agreement between the deceased president of the claimant company and the president of the railway company, which agreement was not sworn to, but was merely suggested in correspondence, would be entirely irregular and an abuse of the process of the Court. The appointment should, therefore, be set aside.

To the motion for the appointment of an arbitrator, the railway company objected that it should have been made before a County Court Judge. The learned Chief Justice, however, was of opinion that he was properly seized of it.

In view of the suggestion that there was an agreement which, if it existed, might oust the operation of the Railway Act, the learned Chief Justice withheld his judgment on that branch of the case for 10 days, to enable the railway company to bring an action to establish the agreement suggested and for specific