

injunction interfering with the sale could only be granted upon an undertaking to answer as to damages if the claim is shewn to be unfounded. It would be difficult to assess these damages upon any satisfactory basis. The motion will therefore be adjourned to the hearing, without any interim order, and the question of costs will be left to the trial Judge. Even if the plaintiff succeeds in the action, the trial Judge may think that the motion for an interim injunction was not warranted by the circumstances." H. E. Rose, K.C., for the plaintiff. W. B. Raymond, for the defendants.

---

RE WINDATT AND THE GEORGIAN BAY AND SEABOARD RAILWAY Co.—MIDDLETON, J.—Nov. 25.

*Arbitration and Award—Misconduct of Arbitrators—Costs.*  
 —Motions by each party to set aside the award made by the three arbitrators, dated June 25th, 1912. Both parties attacked the award upon the ground of the misconduct of the arbitrators, consisting of ex parte interviews looking towards the bringing about of an adjustment of the rights of the parties in a somewhat difficult situation. MIDDLETON, J., said that it was conceded by counsel that in view of what took place the award cannot stand: and he had, therefore, no course open to him but to set aside the award, but as each party had attacked the award, and neither had attempted to support it, no costs would be awarded. Counsel for the land-owner requested that some provision should be made respecting the costs of the arbitration. Counsel for the railway objected, on the ground that there was no jurisdiction. The learned Judge said that he had come to the conclusion that he had no jurisdiction, and, even if he had, he would not, under the circumstances, make any order, but would simply leave the parties to their legal rights. The judgment proceeds: "There is no doubt that I have jurisdiction over the costs of proceedings in the High Court, but I can find nothing upon which to found any jurisdiction over the costs of the proceedings before the arbitrators. I am referred to Pattullo v. Orangeville, 31 O.R. 192, as shewing that I have authority. That case does not establish this, because the motion there was under the provisions of the Municipal Act, where authority is expressly given to the Judge to vary the award; and this is what was done by the Chief Justice. The whole arbitration concerns the value of a small parcel of land. The award is thirteen hundred dollars, which is much more than the amount really in dispute. The