

It may be urged that our jurisdiction [to deal with the award may rest wholly on the agreement of the parties to make the submission a rule of court. The statutes governing the reference contain no express words as to any interference by a court of law or equity, beyond the expressions in section 5 of the act of 1857, 20 Vic., ch. 80, as to the payment of moneys by the corporation "within one year from the date of the decision of the said arbitrators, or from the date of any rule of court ordering the same;" and again, "from the time a certificate of the said decision of the said arbitrators, signed by them, or a certificate of a rule on any appeal under the seal of the court from whence it issues."

The framers of this section doubtless regarded the awards made under the statute to be subject to review by the courts.

I refer to some remarks of the late Sir *J. B. Robinson* as to the difference between the two classes of awards, compulsory and voluntary, in the cases of *The Great Western Railway Company* and *Baby and others*, (12 U. C. R. 117, 120.)

Cockburn, C. J., in *Hodgkinson v. Fernie*, (3 C. B. N. S. 201,) made this suggestive remark, "One word as to the inconvenience which, it has been suggested, might arise from holding parties conclusively bound by the decision of an arbitrator upon a nice and intricate point of law, in cases where a mere question of amount of damages is referred to him. That inconvenience, if it be one, may always be obviated by introducing into the submission or order of reference a clause enabling either party to call upon the arbitrator to reserve any question of law that might arise for the decision of the court." * * * After quoting the provision thereon in the Common Law Procedure Act, he says, "That course might have been taken here; but it does not appear that the arbitrator was called upon by either party to do so. They have, therefore, no ground for complaining that their rights are concluded by the award."

In a case under the imperial statutes, "*The Lands Clauses Consolidation Act, 1845*," and "*The Railways Clauses Consolidation Act, 1845*," 8 & 9 Vic., ch. 18, and 8 & 9 Vic., ch.