arbitrators have put upon the contract, I ought not to refuse the application if it is otherwise well founded.

In re Hansloh and Reinhold, 1 Com. Cas. 215, followed.

Mr. Armour also relied upon the fact that actions had been brought by the Rathbun Company to restrain the applicants from proceeding under their notices to arbitrate, and that the motions for injunctions to that end were resisted by the applicants. The object of these actions, it was said, was to have the construction of the contract determined by the Court, and it was urged that, having prevented that being done, and having insisted upon the method of determining the questions in dispute being by arbitration, the applicants ought not now to be allowed to avail themselves of the provisions of sec. 41.

The answer is, that one of the incidents of an arbitration is or may be the stating of questions of law for the opinion of the Court . . . and it may well be that the applicants preferred, as they had a right to do, to have their disputes settled by arbitration, with the opportunity . . . of having the arbitrators advised the Court . . . to having the disputes, including questions of fact and assessment of damages, dealt with in an action. . . .

That a party to a reference is not entitled ex debito justitiæ to have the direction given whenever a question of law arises in the course of the reference is, I think, clear. The matter is one resting in the discretion of the Court. . . .

Re Nuttall and Lynton, 82 L. T. 17, was referred to as authority for the proposition that where the arbitrators are specially qualified to decide the question of law, the discretion should not be exercised in favour of giving the direction, but I do not understand that any such general proposition is laid down. . . .

The fact that an arbitrator is specially qualified to decide the question of law is a circumstance which, taken in connection with other circumstances, may affect the exercise of the discretion. . . . I can see no reason why such a rule should be applied where the arbitrator has ruled upon the question of law, or is about to do so, and it is open to serious question whether his actual or intended ruling is right. . . .

In re Tabernacle and Knight, [1892] A. C. 298, 301, 302, referred to. James v. James, 23 Q. B. D. 12, distinguished. In re Palmer and Hosken, [1897] 1 Q. B. 131, also referred to.