

MEREDITH, J.

FEBRUARY 8th, 1902

WEEKLY COURT.

Re McALPINE AND LAKE ERIE AND DETROIT
RIVER R. W. CO.*Arbitration and Award—Clerical Error in Award—Reference back—
Arbitration Act of Ontario—Railway Act of Canada.*

Motion by a land-owner for an order referring back award of compensation under the Dominion Railway Act to the arbitrators to correct a clerical error as to the date from which interest was to run, the arbitrators having put in the award "1901," instead of "1900," as they intended.

T. W. Crothers, St. Thomas, for the motion.

H. E. Rose, for the company.

MEREDITH, J.—If provincial legislation applies to this case, the motion is needless, because, by R. S. O. ch. 62, sec. 9 (c), the arbitrators have power to correct the mistake. If that legislation is not applicable, there is no power to remit the award, or to correct the error upon the motion. Except under power conferred by statute, or by the parties, the Courts would not correct errors in awards, either directly or through arbitrators: *Ward v. Dean*, 3 B. & Ad. 234; *Mordue v. Palmer*, L. R. 6 Ch. 22. . . . The question then is, assuming that provincial legislation is not applicable, does the Railway Act, 51 Vict. ch. 29 (D.), authorize the re-opening of the matter? . . . Under its provisions, the award is to be final and conclusive, but subject to appeal when the award exceeds \$400. . . . I have been able to find one case only in which there was a reference back of a case of this character, but that was in accordance with an agreement between the parties requiring it: *Demorest v. Grand Junction R. W. Co.*, 10 O. R. 515. The Railway Act does not, in my opinion, authorize the re-opening of the reference, and, if provincial legislation applies, there is no need for re-opening it: see R. S. O. ch. 62, secs. 47 and 9 (c).

Motion dismissed without costs.

Crothers & Price, St. Thomas, solicitors for the land-owner.

J. H. Coburn, Walkerville, solicitor for the company.

