

In *Draper v. Radenhurst*, 14 Ont. P. R. 376, on application for approval of security under sec. 75, MacLennan J.A., discusses the nature of the "special case" mentioned in this clause. It was contended before him, that every appeal to the Supreme Court was on a special case, and required the notice mentioned in sec. 70.

Notice of appeal under this clause must be given within twenty days after the decision appealed from. Sec. 70.

Where a case has been stated by consent of parties the Court cannot alter its terms except with the like consent. *Smyth v. McDougall*, 1 S. C. R. 114.

AWARD.

(b) From the judgment upon any motion to set aside an award, or upon any motion by way of appeal from an award made in any superior court in any of the Provinces of Canada other than the Province of Quebec.

The appeal under this sub-section is restricted to cases in which a motion is made to set aside, or by the way of appeal from, an award.

No appeal lies from a judgment on a motion for liberty to enforce an award. *Township of Langley v. Duffy*, S. C. Dig. 134. Nor from the judgment on a petition to increase the amount of the award. *Judah v. Atlantic and N. W. Ry. Co.*, Cam. Prac. 114.

The report of a referee under the Drainage Trials Act of Ontario is not an award from which an appeal will lie under this paragraph. *Township of Harwich v. Raleigh*, 18th May, 1895. S. C. Dig. 58.

On an appeal against an award under this provision in proceedings by arbitration under the Ontario Municipal Act, the Supreme Court increased the amount of damages awarded without a cross-appeal. *Town of Toronto Junction v. Christie*, 25 S. C. R. 551.

An appeal will lie under this sub-section where the reference to arbitration was voluntary, but provided for the same right of appeal as if made by reference in an action under R. S. O. (1877) c. 50, s. 189. *Bickford v. Canada Southern Railway Co.*, 14 S. C. R. 743.