

MEREDITH, J.—The contention is, that sec. 45 of the Act covers an application of this character—for leave to enforce an award—but that is not so. The section applies to all applications to set aside an award, but not including an appeal against an award, which secs. 14 and 34 provide shall not be made after the expiration of 14 days from the filing of it, except by leave under special circumstances. The omission of a comma at the end of the first line of the section in its last two enactments cannot be permitted to destroy or very largely alter its meaning. All applications—all what applications? The appellants say all applications under the Act; but why read in the last three words? It cannot mean all applications under the Act, for some provided for in it are preceding section deals with “any appeal or motion to set aside an award.” Plainly “all applications” means all applications of that character. It is not very accurate to say “an appeal to set aside an award;” but in dealing with motions to set aside awards care is taken, perhaps needless care, to exclude, from all applications to set aside an award, an appeal against an award under secs. 14 and 33. To be strictly right from a grammatical point of view the section is to be read as it originally was, or better still thus:—All applications to set aside an award (but not including an appeal against an award) made on a submission, shall be made, etc.

The second contention ends when it is said that the reference was one made out of Court—not in any cause or matter in any Court.

And as to the other grounds; it is not even asserted that the appellant had not due notice of the appointments upon which it is said evidence was taken in his absence, such notice as would justify the arbitrator in proceeding *ex parte*, and the items in regard to which error is alleged were apparently fully gone into in the evidence taken, and in the arguments of counsel for all parties had, before the arbitrator. These matters were properly the subject of a motion against the award if really considered of any consequence; but no motion has been made against it, and these alleged injustices are put forward only when proceedings to enforce the award became troublesome. They ought not to delay the order now, but a refusal to give any effect to them upon this motion is not to and will not prejudice any other proper use the appellant may be able to make of them.

Appeal dismissed with costs.