

20—*In re* Brogden and the Llynvi Valley R. W. Co., (9 C. B. N. S. 229,)—objection was taken to an award of compensation on the ground that the arbitrators had included in the amount awarded certain illegal claims. In shewing cause it was pressed upon the court that it must be treated as an ordinary award, and that being good upon its face the court would not entertain a suggestion that the arbitrator had erred in fact or in law, referring to *Hodgkinson v. Fernie, &c., &c.*

The opposing counsel fully conceded this to apply to ordinary awards, but urged that "the reasoning applicable to ordinary references, where the parties select their own tribunal, and have the means of agreeing beforehand as to what shall be the subject of enquiry before the tribunal so selected, is altogether inapplicable to references under the Lands Clauses Consolidation Act."

The court took time to consider the judgment, subsequently delivered by *Erle*, C. J. He does not notice the objection as to the illegal compensation not appearing on the face of the award, but proceeds to a full consideration of the merits and of the proceedings of the arbitrator. He says, "Upon these facts, we have come to the conclusion that no excess of authority is proved, and therefore the objection to the award is not supported. * * Our judgment proceeds on this view of the effect of the affidavits; but we ought to add, that, in so limiting it, we do not intend to sanction the argument that the award would have been bad, if the umpire had given the compensation for contingent damage which the company alleged."

I can only gather from this case that the court adopted the view that the objections need not necessarily appear on the face of the award. Had the view been different, they would hardly have deferred judgment and then have elaborately discussed the merits opened in the affidavits.

Under the imperial acts, where the amount of compensation exceeds £50, the claimant can either elect to proceed by arbitration, or he may have a warrant to summon a jury to assess the amount. When the compensation is assessed by a jury, the party dissatisfied can remove the inquisition, &c., by *certiorari*, and move against it in the superior courts.