

the grounds on which his colleagues based their award. But the accuracy of this statement is not admitted by counsel for the claimant, and we have not the benefit of any statement from the other arbitrators. Save one passage in the award . . . we have nothing which we can accept as indicating the principles by which they were guided in coming to their conclusions. While we may look at so much of the statement of the non-assenting arbitrator as appears to indicate his own views, we are not at liberty to pay regard to it as setting forth the opinion of his colleagues. In this state of the case, the only course to be adopted is that commended by the Judicial Committee in *Armstrong's* case, viz., to go through all the evidence, and—having, of course, due regard to the findings of the arbitrators as far as they can be ascertained—examine into the justice of the award.

Having read, analysed, and carefully considered the whole testimony, keeping in mind the considerations that should govern, I find myself, with all due respect, unable to say that the award is just, or so free from injustice to the contestants as to render it proper and right to sustain it in its entirety.

It is very difficult to understand upon what principle the award is based. No separation has been made between the amount allowed for the land actually taken and the amount awarded as damages for lands injuriously affected. A lump sum is given as compensation for both.

The use to which the claimant puts the farm is as a stock and dairy farm, and it was with the purpose of putting it to such use that he acquired it. In doing this he was not actuated so much by a desire to secure a profitable investment as by the intent to gratify a wish to indulge in the pastime of breeding and owning thoroughbred horses and high-class cattle, and upon a property brought up to the full standard of a high-class stock and dairy farm. In attaining this end he was not governed by any considerations of mere expense. He is a man of wealth, well able to indulge his fancy without counting the cost. . . .

The greater part of the arable land is situate on a high plane, far above the level of the Don valley, and practically cut off from the low parts of the claimant's lands by steep hills. The main buildings, or the greater part of them, are situated in the lower parts. In the working of the uplands before the entrance of the railway, access from the buildings to the uplands was gained by means of a loop-shaped roadway . . . leading up a very steep hill . . . In addition to this material obstacle in the practical operation of the farm, there are others caused by the large ravines through which the . . . branch of the Don and its tri-