

railway track, \$75, makes up the amount of \$3,328. The arbitrators add to the schedule of figures this paragraph: "Taking the evidence as to the value of the farm and the depreciation thereto by reason of the railway, there is ample evidence to support a finding of \$4,000 in favour of the land-owners, but the arbitrators have placed their finding at \$3,328 after considering the general evidence as to capitalisation of the annual loss as well as depreciation to the value of the farm."

The evidence to support a finding of \$4,000 consists of two divisions: one founded wholly upon detailed annual inconvenience and its capitalisation; and the other giving a lump sum without being tied down to items as forming its basis. No doubt, it is to the latter class that the arbitrators refer in the sentence just quoted.

The claimant H. L. Ketcheson and the witnesses Donald Gunn, Francis Wilson, and Herbert Finkle, make the damage \$4,000, and base it upon detailed and valued inconvenience capitalised. Counsel for the respondents meets the objection taken to this method of arriving at the result by urging that the general evidence referred to in the reasons for the award would support it.

I have gone over the evidence to see if an award of \$3,328 could be properly based upon it; and it appears to consist of what the following witnesses say, namely, Ransom Vandervoort, James Boyd, Merritt Finkle, Harvey Hogle, George Gunn, George Ostrom, and Morley Potter. It cannot be said that there is any divergence of views among these witnesses. Indeed, the unanimity with which they agree on \$4,000 is somewhat remarkable. But no evidence was called by the railway company, except as to the trustworthiness of the calculations of some of the witnesses. No one has, on behalf of the railway company, called in question the general fact of depreciation. Indeed, this evidence appears in the testimony of one of the company's witnesses, Frederick F. Clarke, an Ontario land surveyor: "Q. Has there ever been a time since the railway was constructed, to your knowledge, that the cattle could go through (the cattle-passes)? A. Not to my knowledge."

As I have said, I think that the objection to some of the items and to their method of presentation is well-founded, and that the method of arriving at a capital sum cannot be defended. Nor can I, after perusing the evidence, disabuse my mind of the conclusion that the views of the different witnesses are the result of more or less communication among themselves, and