

This objection is also, in my opinion, not well founded. The provisions of the section guarding against the possibility of the number of arbitrators being an even one, was introduced to prevent the arbitration proving abortive owing to an equal division of opinion, and indicates clearly, I think, that it was not intended that unanimity should be required.

The arbitrators in this case were moreover, in my opinion, appointed to fulfil a public duty, and unanimity was not therefore required: Russell on Awards, 7th ed., p. 216.

The sixth objection fails also. The award was made and published within three months after the arbitrators entered on the reference.

There remains to be considered the fifth objection, which is that the award is "uncertain as to the surplus moneys."

This objection is, I think, well founded. In dealing with the matters provided for by sub-sec. 8, the arbitrators have awarded that certain named percentages of any surplus moneys on hand on the 31st December next shall be paid by the trustees of school sections 7 and 11 of Arthur and by the trustees of school sections 12 and 13 of Minto to the trustees of the union section, and that the owners of certain lots in Arthur shall have refunded to them by section 7 of Arthur any sum which they have paid within the last five years, or should afterwards be required to pay for debenture indebtedness for the erection of a school house in that section.

The award in these respects is uncertain and therefore invalid, but the case is one in which I should not, I think, set aside the award, but should remit the matters referred to the arbitrators in order that what is wrong may be set right, and it will be well for the arbitrators, in reconsidering the matters referred, to make more clear what they mean by directing "the said several sums to be in full of all claims and demands which said union school section No. 17 may have against the said respective school sections in respect of school premises, equipment, and moneys on hand or other manner."

Following, as this provision does, the direction to which I have referred, that section No. 7 of Arthur is to refund certain moneys to the landowners mentioned in the award, its meaning is obscure, though probably what is referred to in the provision I have quoted is the payments which the four school sections are required to make to the union section.

There will be no costs to either party of the motion or of the reference back.