

It is my opinion, arrived at from participating in many jury trials and commission hearings, that the ideals of just compensation and uniformity of awards are much more likely to be attained as the result of commission awards than by jury verdicts.

Some of the specific reasons for my opinion are:

1. Awards made by the commissioners are more nearly fair to both parties and are more uniform than jury verdicts because:

(a) The commissioners are selected and appointed by the U.S. district judges because of their character and competence; while jurors are selected by chance from the public at large.

(b) Commissioners, using their own knowledge of values, and from hearing testimony by expert appraisers, become more generally aware of land values within their districts than is possible for members of randomly selected jury panels, freshly chosen in each case.

(c) Judging land values requires special knowledge. Because they try many cases, commissioners have the opportunity to acquire much of this special knowledge. The members of juries, separately selected for each case, obviously do not have this opportunity.

(d) The commissioners, with the parties, inspect and examine the subject property, as well as the property which either side uses as "comparable sales." The knowledge thus gained is most helpful in forming an opinion of value and the weighing of conflicting statements made by witnesses in describing the property and its value. The members of a jury do not have this opportunity nor the knowledge gained thereby.

(e) The commissioners, being specially selected by the judge because of their fitness for the position, become, as they gain experience, much more competent to relate values given by witnesses on "comparable sales" to the value of the subject property. This requires discrimination in weighing such testimony, as it may affect the value of the subject property. While there may always be a few competent persons on a jury, I am sure that a large majority of the average jury are not, by training or innate ability, able to fairly relate the many so-called comparable sales which are testified to in the usual condemnation suit to the value of the subject property.

(f) Another problem which the tryers of condemnation suits have is the wide divergence in the values testified to by the witnesses for the respective parties. This is met with in most of the cases. Such testimony must be weighed and reconciled, if possible. In so doing, the commissioners have a great advantage over the jurors because they have inspected the property before the trial and know what they are talking about. Ordinarily, to follow the opinion of value given by the witnesses of either party would result in an unjust award.

2. My second reason for believing that the commission plan of trying these suits is better is that the procedure is simpler:

(a) The pleadings are simple and not technical. The landowner does not need to file an answer, nor even employ an attorney, unless he desires to do so. He is in a much better position to try his own suit before three than before a jury.

(b) Hearings are largely informal. There is no jury to impanel, there are fewer objections to evidence, there is no charge to the jury,