It is the "sidewalk pavement," which includes the curbing, that is to be paid for at 16 cents per superficial foot. Unless one reads into the contract something not found there, it is, I think, impossible to give effect to plaintiffs' contention.

It is the pavement—the part to be walked upon—that is to be paid for at the price stated, and this includes the curbing.

It is not disputed that by this measurement plaintiffs have been paid in full, if not overpaid, as stated by the engineer.

It is not alleged in the pleadings that the word "superficial," used in the contract, has any technical meaning in the trade, or that the parties contracted with reference to any conventional use of the word in this particular case.

Evidence was, however, given at the trial by two engineers and two contractors to the effect that in contracts in which they were concerned, the practice was to measure "the whole surface of the work," that is, across the top and the finished face of the curb; but the evidence falls far short of satisfying me that there was anything like a universal custom in the trade, and it was not contended that any such custom prevailed in the town of Brockville, where the work in this case was done, or that the parties contracted with reference to any such custom.

In Symonds v. Lloyd, 6 C. B. N. S. 691, referred to by plaintiffs' counsel, evidence was admitted to shew that the usage or custom of the place was to measure brick and stone in a particular way. Here there is no such evidence, and I am of opinion that the plain meaning of the contract cannot be altered by shewing what was done in other cases under other contracts where possibly the wording as to measurement was different.

There is a further difficulty in plaintiffs' way, as pointed out by the trial Judge, that plaintiffs are entitled to be paid on the production of the engineer's certificate. They have been paid in full for all that the certificates call for, and, unless there was fraud or misconduct on the part of the engineer, plaintiffs are bound by his certificate. . . .

[Reference to Stevenson v. Watson, 4 C. P. D. 148; Scott v. Corporation of Liverpool, 1 Giff. 216; Botterell v. Ware Board of Guardians, 2 Times L. R. 621; Chambers v. Goldthorpe, [1901] 1 Q. B. at p. 635; Roscoe's Digest of Building Cases, 4th ed., pp. 30, 35.]

Appeal dismissed with costs.