

and forwarded." Smith was recalled, and denies that the arrangement was "tentative" as alleged by Reece, and states that he supposed it was a completed agreement.

"Q. I understand you to say that he wanted to consult someone? A. Yes, when I reached, as I have already testified, I reached for the blank notes to have him sign them, supposing that he would sign them right here, and he said that he wanted to consult someone and would see that the notes were signed and sent back to us as soon as he got back."

Hemenway's evidence is much to the same effect:

"Q. He said he wanted to consult his partner and probably his solicitor when he went back? A. He said nothing about talking it over with his partner or his solicitor except to advise with them of the settlement he had made, and then we wanted further signatures on the notes."

It cannot, I think, be said upon this evidence that there was a concluded arrangement made at Buffalo, although no doubt it was expected both by the plaintiffs and Reece that the arrangement would be concluded upon his consulting his partner and solicitor.

The evidence of Reece is important. He states that he had paid for the equipment, including the switchboards in full; that on the 10th of January, he received a letter from the plaintiffs' solicitors claiming a lien for \$516; not having obtained any satisfaction from the plaintiffs' solicitors he decided to visit Buffalo with a view of arriving at some settlement in regard to the general account, and the alleged lien. The defendants' business had been seriously affected by fires destroying portions of their property, and in this way making it impossible for the defendants to meet their obligations to the plaintiffs upon the general account. He says the terms were discussed as mentioned in the above letter, but that he had to consult his partner and he desired also to consult his lawyer before signing any notes. He says, "My intention was to eventually carry out the agreement, that is conditionally. The arrangement had to be completed and only completed by the giving of the notes. My intention was to give the notes. And if I did not give the notes the switchboards were subject to the same conditions as they were prior to my visit to Buffalo. It had not affected their lien in any way. The lien was quite as much in effect." He says that the reason he did not answer the letter of the 29th