

any satisfactory tenant, were willing to erect a substantial building such as would be valuable for business purposes, and could be erected at a comparatively moderate expense. Plaintiffs and defendants commenced negotiations in the summer of 1904, at a time when there were no plans or specifications prepared for any building upon the land in question, but there were plans, more or less complete, for a building upon land immediately to the north. This building was spoken of as of the same size, and it was suggested that changes could be made in the proposed building to suit. In the result, an agreement was arrived at, reduced to writing, and signed by the parties early in October, 1904. What preceded the written agreement is material, in view of the particular dispute which has arisen between the parties. Plaintiffs understood that defendants wanted a building, and with a view to negotiating obtained from their architects a letter dated 13th August, 1904, stating that a 4-storey and basement building would cost \$18,000, and a 5-storey and basement would cost \$22,000. The architects then suggested to plaintiffs, irrespective of building for any person any special edifice, going down with their party walls an additional depth of 2 feet beyond the then present depth, and thus get the advantage of a "higher cellar."

On 15th August plaintiffs' solicitors wrote to the architects agreeing to the suggestion about going deeper with party walls, and say they think the price for building "rather high," but they will submit the estimate to Anderson and MacBeth (the defendants), and on the same day plaintiffs' solicitors did write to defendants as to the cost of a building. . . . On 20th August plaintiffs' solicitors had prepared and submitted to defendants a memorandum of agreement for lease. On 26th August plaintiffs' solicitors wrote again to defendants suggesting restrictions as to sub-letting. On 8th September plaintiffs' solicitors pressed for return of agreement, and on the same day defendants' solicitors returned draft agreement, objecting to it and suggesting changes. On 9th September plaintiffs' solicitors wrote refusing to agree to \$21,000 as limit of cost. On 12th September . . . plaintiffs' architects by letter asked defendants for particulars as to requirements of building . . . and on this letter, in pencil, is what must be considered as defendants' reply. . . . On 28th September plaintiffs' solicitors sent to defendants' solicitors the draft agreement