

arbitrator is not, in contemplation of the Courts, in any sense the representative of the person who appointed him. The agent? Such a thing could not be thought of. It is a domestic Court of Justice. In a valuation case it is different. Even then a triangular tribunal of judicial impartiality is a thing to be desired, but it is rarely desired by the parties. When Nicholas Garland was appointed it was expected of him that he would be earnest, vigilant and loyal in looking after the defendant's interest, and he was; a sensitive anxiety to protect the other side—unassailable judicial poise—was not expected, or desired. When Mr. Garland halted Campbell he was endeavouring to value the property down. Already Mr. Millar had sent Richard Smith to him, and he knew, what the other two valuers did not know, that Smith put the buildings at \$40,000 and Armond at \$42,000. He remembered that Campbell was somewhat disenchanted by the evidence in the O'Brien valuation. He knew that Mr. Millar had been most emphatic in insisting that it was the duty of the valuers to search for information everywhere—and there was no telling what these enquiries might elicit—and he knew that to call Smith or Armond would be but to corroborate the statements already in; and in this situation, as a keen, shrewd business man, he acted promptly and boldly and by doing so I have no doubt brought about a valuation some thousands lower than it otherwise would have been. I don't think any objection is open to the defendant upon this head. The defendant is not in a very good position to complain. The party complaining ought to be free from blame. Lord Eldon in *Featherstone v. Cook*, 9 Ves. 67. I am satisfied that it was quite clear to Mr. Millar that he could bring forward any evidence, estimates or opinions upon value he thought fit to use.

6. The valuation is avoided by including in it \$300 for Judge Barron's costs.

I was surprised that this point was pressed. There is no ground for saying that this was done. I am quite satisfied that it was not done. The \$300 had reference to the lavatory, as was stated in Court.

7. The valuation is not in the terms of the leases and is ineffectual for leaving undecided "the amount proper to be paid" for the buildings.

The award is clearly sufficient and I would not think it necessary to refer to this point were it not that in addition