

Then to deal with the merits. Whatever negotiations occurred prior to the first letter in evidence, 8th September, 1902, in which Mrs. Elliott sends Black a list of lots, in which this one, 16 in 12, Albermarle, appears, at the price of \$1,800, they came to nothing, and should not enter into consideration in order to construe the correspondence which arose the next year, in July, 1903. The matter is opened by Black writing to her in California: "Have you sold the Harrison lot (the one in question); have sent a lumber man to see this lot, and he reports it worth about \$1,000. The timber is small, and Harrison took the oak off before selling it to Mr. Elliott. Supposing I can get \$1,200 cash, would you take it? An answer at your earliest convenience would oblige."

Answer is 24th September, 1903, from California: "In reference to that lot you wrote me some time ago, I mislaid it somehow. Now here is my best offer, \$1,275. I have forgotten those parties' names whom you wrote me about, but I know timber is certainly more valuable than when Mr. Elliott bought."

No answer was sent to this, but on 9th November, 1903, Black undertook to sell to Bradley for \$1,275, and advised defendant by telegram of same day, post card dated 10th November, and lawyer's letter of 12th November, enclosing a deed for her signature. On 19th November she writes Black, objecting to the form of the deed, that it should be "an administratrix deed . . . so there is no use wasting money, and I will wait till I hear from you. I was just writing you to take it off the market when I got the cablegram; because my valuator must have been away out far." No reply to this apparently.

On 27th November she writes again: . . . "I have decided not to sell that lot unless I get more money. Had I received it shortly after I wrote you, I had a chance to invest here, but now I think it just as safe in timber. I wrote you in reference to deed. Had I known I would have had you prepare papers in Chesley, but I feel I made a mistake to sell for that, so I have signed no paper nor will until I hear of more money."

And sent telegram of 28th November: "Will not sell for what I offered; mistake in deed."