

able, as I understood from Mr. Bond this morning that he has not got any of these vouchers or papers from Webb."

After the above mentioned valuation had been made, it appears Mr. Bond became aware that it was not made in accordance with the terms of the submission, but, in order to satisfy himself on the point, he wrote Messrs. DuVernet, Jones, & Co., for an opinion, which was sent Bond on 8th January, and is as follows: "We have considered the enclosed copy of agreement which you handed us. We understand that Mr. Webb contends that you and the other arbitrator are to find the amount that it cost Mr. Webb to erect the building, whereas Messrs. Garside & White contend that you are to value the material and labour, regardless of what Mr. Webb may have paid for it. We do not think the agreement bears out the contention of Messrs. Garside & White. You will notice especially that the clause at the top of the second page provides that Mr. Webb will give information in regard to the cost of material and labour. There would be no object in inserting this provision if the intention of the agreement had been to merely make a valuation, which could and should have been done without any intervention by Mr. Webb."

In consequence of this opinion, on 18th January, 1906, another agreement under seal was executed by the parties, which is indorsed on the former submission, and is as follows: "It is agreed that when J. E. Webb furnishes evidence satisfactory to the arbitrators as to the actual cash cost referred to in within agreement, the finding of the arbitrators shall be based thereon, and that the arbitrators may use their own judgment and make a valuation in all cases where evidence such as satisfies them is not produced; and so as to avoid delay it is agreed that all evidence which J. E. Webb intends to give or produce to the arbitrators on the question of actual cash cost must be given by 31st January, 1906, and on that date the arbitrators may proceed on the assumption that J. E. Webb is not able to give any further evidence and give their decision accordingly, and after the said date no further evidence shall be received by the arbitrators. The within agreement is to be read as though it contained all the above provisions."

Mr. Gordon was re-appointed third arbitrator on 30th July.

Prior to the execution of this supplemental agreement and on 15th January Mr. Bond wrote defendant saying: