

to include architect's and draughtsman's fees to be paid out of the said 10 per cent. by the said John E. Webb."

The submission also provides that the said Bond and Gibson shall, before entering on their duties, mutually agree upon a third person who will, in the event of a failure on the part of said Bond and Gibson to agree, "act as umpire to decide any or all of such matters."

Webb, by the terms of the submission, agreed to furnish all necessary information in regard to the actual cash cost of all material or labour entering into the cost of the building.

H. B. Gordon, an architect, was duly appointed umpire.

The plaintiffs evidently thought that Mr. Bond was not aware of his appointment as arbitrator, for on 4th December they wrote him enclosing a copy of the submission, and urging him to fix a time for proceeding with the arbitration, as Mr. Garside was desirous of leaving the city.

Mr. Bond was nominated as an arbitrator by the defendant.

On 30th December Garside wrote Bond stating that he had just learned that nothing had been done by the arbitrators, and asking Bond as a personal favour to see that the arbitration be proceeded with the first few days of the new year. Mr. Garside mentioned that he was writing Mr. Gibson to co-operate in this.

Gibson was written to on the same day in like terms

The arbitrators considered the requests in the letters to them to take up the work of the arbitration as "notices calling upon them to act," and they did act, for on 9th January, 1906, Gibson wrote the plaintiffs: "I telephoned Mr. Bond this morning, re closing up our valuation, and he informed me that since our last meeting he has had other communications which throw a new light on the agreement to him. He has apparently consulted his solicitor as to the meaning of the agreement, and his solicitor has written him a letter, which he sent to me to-day, and of which I enclose you a copy. As I understand it, Webb's claim under the agreement is for the exact cash cost of his work, and not a valuation. Of course we understand from the agreement that Mr. Bond and myself are to ascertain the cash cost, but, in the absence of any accounts, vouchers, or papers from Webb, we assume that the cash cost is not ascertain-