

As to (1) the excuse alleged for the Regina going to the inland dock instead of to defendants' is not a valid one and is not true in fact, i.e., the alleged bad condition of defendants' dock. I do not know that defendants are entitled to the whole sum of \$134.44, and this will be one matter to be referred to the Master.

As to (2) and (3) there are 2 witnesses on each side, Young and Plummer against Browne and Jordan. I do not accuse Young of trying to mould his evidence wrongly or improperly, but it is always a subject of hostile comment when a witness corrects and changes his evidence as to material facts sworn to by him at a previous examination as the result of "thinking matters over."

As to Plummer's evidence Browne kindly says: "I am sure he forgets."

It is far from the mind or intention of either Browne or Plummer to accuse each other of deliberately saying what is not true. It is a pleasant and somewhat unusual incident in a trial. The whole affair is an illustration of the oft-repeated moral that men ought to take care to have their contracts written out and signed by the parties.

Plummer says at first, "we arranged a basis for a contract—for 3 years *as far as I recollect.*" He afterwards, it is true, says: "Browne wanted a longer term and we would not agree."

Browne and Jordan are most clear and positive in their testimony as to items (2) and (3). Jordan was then an employee of plaintiffs.

On 8th May, 1908, defendants wrote a letter to Young which ought to have called plaintiffs' attention to the fact that the Browne Co. thought they had a 5-year contract. "We do not think there will be any trouble about giving your boats any part of the shed you will require so long as you and Jordan are with the line, *but something may happen in four years.* . . ."

They had already entered on the *first* year.

There will be judgment for defendants on the counterclaim with a reference to the Master as to all 3 items, and costs of counterclaim up to this judgment.

Further directions and subsequent costs reserved until after the Master shall have made his report.

Thirty days' stay.