shafts, he refused to go on with them; that then it was agreed that he should sink the other at the same price; and that he was told that a written contract would be prepared and submitted to him by Mr. M., the solicitor and one of the directors of the company.

By mistake the contract was drawn up at $30 per foot, and upon this being shewn to the plaintiff, he attempted to bribe the manager of the company to accede to the increased price, but the manager refused. The plaintiff then took the document and signed it and handed it to the solicitor of the company. The document was never executed by the company, and never was accepted by the company or by any one authorized by the company—the manager insisted that the terms were $25 per foot, and at no time was there any agreement to pay any larger sum.

The plaintiff went on and sank one shaft to the required depth, and at all points in the shaft there was a clear opening of 5 ft. x 7 ft., that is, speaking mathematically, a right parallelogram could at any point be described within the shaft without cutting the sides. The shaft was not straight, however, but, following the vein, it curved around, forming what was called a "belly."

The plaintiff claims the balance of the sum of $1,500, being for 50 feet at $30 per foot. The defendants assert that the price should be $1,250, and that they are entitled to damages for the cost of cutting away the "belly."

The plaintiff's claim, I think, cannot succeed—he knew that the defendants were not willing to pay more than $25 per foot, and he cannot now insist upon being paid more.

In Moore v. Maxwell, 2 C. & K. 554, a supercargo had sailed to Colobar in charge of ship "A," his commission being 5 per cent. Some time after his departure, his principals despatched another ship "B" to Colobar, with instructions to the supercargo already there to find a cargo for her, and offered him in connection with ship "B" a commission of 2½ per cent. He wrote to his principals rejecting this 2½ per cent. commission, but, notwithstanding this, he proceeded to load "B," thinking that the best course for his principals. It was held that he could recover only 2½ per cent. in respect of the cargo of "B."

The present case is stronger against the plaintiff than the case in 2 C. & K. See also Cavanagh v. Glendinning, 10 O. W. R. 475, in the Court of Appeal.