

that he never had notice of any meeting to sign the award, nor that the award was ready for signature, and he never was asked to sign it; and he believed the amount awarded to Leak did contain the alleged expense incurred by Leak in filling in the esplanade on his land, but he did not know the fact.

On the other side were filed the affidavits of the two other arbitrators.

Mr. Cumberland's affidavit stated that, having heard all the evidence, the three arbitrators met to discuss it, and consider the award: that after much discussion Manning at last declared that any agreement was impossible: that the other two arbitrators expressed themselves equally determined in their view, and Manning said that, under those circumstances, he could not sign the award, and they might consider him "out:" that after some further conversation Manning repeated this, and that the other two must go on, and make their award alone: that Dennis proposed that Manning, having declined to sign any award in accordance with their views, the other two should at once proceed to close the matter, and adjourn over to his office: that up to that time every thing that formed the basis of the award had been discussed, and no item was afterwards introduced to ground the award on, but what had been fully discussed in Manning's presence: that they all walked together to Dennis' office, discussing the matter on the way, and, at the door, Manning voluntarily parted from them: that Manning well knew that it was to make up the computations, and to draw up the award, if possible, there: that they went to Dennis' office, there being no light at the other office: that they never had any further or other meeting, till they met again to sign the award, and had there been the slightest reason to believe that Manning would have signed the award, it would not have been signed without giving him an opportunity of being present.

The affidavit of Mr. Dennis stated that he had read Mr. Cumberland's affidavit, and that it was substantially and literally true, and it contained no statement of fact not contained in Mr. Cumberland's affidavit.