

them, there would be no loss. If he could have entered into them, then comes the question of what the loss was." How the Master came to take the view that this was an adjudication that plaintiff was entitled to an account of profits which might have been made out of all the projected contracts, upon the assumption that they could all have been obtained and carried out, though it should be shewn that it was impossible to procure some of them, for causes for which defendant was not responsible, I cannot understand. If anything, it seems rather to be an expression of the Judge's opinion that damages should be assessed only in respect of contracts which defendant might have procured had he retained the gravel pit. But I think the correct view is that upon this point the judgment must be read as requiring the Master, in dealing with the question of damages, to determine the basis upon which they should be allowed.

As the Master has proceeded upon a misconception of the judgment and of the scope of the reference, these matters might, upon this ground alone, be referred back to him for adjudication. But, to avoid further possible complications and delay, I deem it better now to express my view as to the true interpretation of the contract itself, which counsel for plaintiff contended supports the Master's finding as to the basis upon which damages should be assessed.

After a recital, *inter alia*, that defendant "is about to enter into certain contracts hereinafter referred to," this document proceeds as follows:

"Now this agreement witnesseth that, in consideration of the hereinbefore mentioned mutual covenants, promises, and conditions, the said parties hereto do hereby mutually covenant, promise, and agree to and with each other in manner and form following, that is to say:—

"The said Willox is to enter into contracts as follows, with the Niagara Construction Limited for the supply of from 15,000 to 25,000 yards of sand; with M. P. Davis for the supply of about 25,000 yards; with A. C. Douglas for the supply of about 10,000 yards; with H. C. Symmes for the supply of about 10,000 yards; with the Electrical Development Company Limited for the supply of about 15,000 yards; all at a price not less than 85 cents a yard delivered upon their