

File No. 5358 Continued.

OPINION.

3860

It appears that on February 7th 1906, the city entered into a contract with the United States Company for the furnishing to the Water Department of such cast iron pipe and fittings as the Water Department might require during the year 1906. The pipe and fittings are described in Schedule "Q", which is attached to the contract, and in the Schedule the estimates quantities of pipe and fittings, which would be required, are set forth. These estimates quantities were based upon the quantities of similar pipe used during the year 1905, with a percentage added to allow for a normal increase in the amount required during 1906. Mr. Quick states, however, that the demand for extensions during 1906 has been so unprecedented that the estimated tonnage of the kind of pipe covered by the contract in question was exceeded early in the year. The Water Department has been unable to get the United States Company to fill its orders since April 1906, and has endeavored to purchase similar pipe elsewhere, but has been unable to do this, as all the pipe foundries are very much behind in filling their orders. The Water Department desires to know, what redress the City has against the United States Company under these circumstances.

3861

I have examined the advertisement, contract and specifications. The advertisement calls for bids "for furnishing and delivering to the Water Board such supplies as may be required for the year ending December 31, 1906". Then follows a description of the character of supplies which would be required, and which includes cast iron pipe and fittings. The different character of the supplies were set forth in different Schedules, which were furnished to bidders, and the Schedule for fur-

The proposal of the United States Company was to furnish the materials enumerated in Schedule "Q" in strict accordance with the specifications accompanying said schedule (which specifications have been carefully read), and in strict accordance with the requirements and conditions of the accompanying agreement".

The contract provides that the United States Company shall furnish and deliver to the Water Board the materials mentioned in Schedule "Q" and then provides that, "it must be distinctly understood that the quantities stated on attached schedule are intended to be approximate only, and the Water Board and the Mayor and City Council of Baltimore reserve the right to purchase as much less or as much more of said material as