

with a final estimate of the work done by the contractor and a statement of the amount due and unpaid, and the railway company shall, within 60 days after such completion, pay to the contractor the full amount which shall be so found due, including the percentage retained on former estimates as aforesaid, except as in this agreement is otherwise provided, upon delivery by the contractor to the company, if required, of a good and valid release and discharge of and from any and all claims and demands," etc.

Monthly estimates were from time to time made by the railway company in accordance with the terms of the contract.

The estimate is a certificate from the division engineer of the railway company, setting forth in detail the work done during the month, the amounts included in the previous estimate, the "total" work done, the rates at which the work was to be paid for, and the amounts earned. From the aggregate of the amounts earned is deducted "percentage retained 10 per cent.," and from the balance is then deducted "amount previously retained," stating the month for which the return was made, and the ultimate balance is stated to be "amount for the month of"—the month for which the estimate was made.

The Master in taking the accounts has proceeded upon the assumption that the appellants acquired by their assignment the right to receive only the \$1,300.28 and \$1,083.84 shewn by the October estimates as the amounts for that month, subject in both cases to prior claims, and this is objected to by the appellants, who contend that the assignment passed to them not only these sums but the percentages which were retained as shewn by the estimates, and which Bunyan was entitled to have paid to him upon the final completion of his contract.

The appellants' contention in this respect is, I think, well founded. The assignment to them is not simply of the October estimates, but of "all moneys due under my contract . . . as shewn by the estimates hereto annexed."

The words "moneys due" are not, I think, used in the sense of presently payable, but extend to money owing though not presently payable. Such an interpretation of the language the parties have used accords with what must have been, I think, their intention, for, upon the other construction, owing to the prior assignments which had been made by Bunyan, the fund assigned would not have been such a security as he had agreed to give for the advance of \$2,000 which was made to him by the appellants on the faith of it.