

fusal or neglect on the part of the defendants or their assignees to have that permit on Ombabika Bay renewed and to permit the plaintiffs to carry out and complete their contract as originally agreed upon, and this includes the value of the supplies left at their camp at Ombabika Bay \$1,734.24."

It will be seen that this involves the fallacy I have just been discussing. Counsel for the plaintiffs does not pretend to support it on any such ground but bases it as upon a conversion. We must therefore examine into the precise facts of the alleged conversion, and here the Master does not help us.

In the opening before the Master, counsel for the plaintiffs (p. 4), said: "When the defendants gave up work they had a good deal of material on hand on the ground . . . about \$2,000 worth which we understand was taken over by the defendants' assignees, O'Brien & Co."

The contracts between the defendants and O'Brien & Co. are two in number, Ex. 17, an assignment of the plaintiffs' contract, and Ex. 18, an assignment of the contract to build the railway. Neither of these contains any assignment of the plaintiffs' goods, and consequently neither can be construed as a conversion. We must look at the facts as they occurred on the ground.

When the plaintiffs ceased work in the spring they left supplies of different kinds on the premises which they had occupied as a camp. The buildings there seem to have been rented. When O'Brien & Co. took over the defendants' contract, he wanted these supplies. Kelly went up and took an inventory of them and he and O'Brien dickered concerning the price but apparently could not, or at least did not, agree. O'Brien took the supplies knowing them to be the plaintiffs' and being willing to pay the plaintiffs for them, not at all by reason of any authorisation of the defendants. The plaintiffs must look to O'Brien & Co., there was no conversion by the defendants.

Item 39 is also attacked. This \$516.55 for oats and hay alleged to have been supplied by the plaintiffs to the defendants.

The Master says: "As to the item of accounting in dispute, I find that the defendants should pay for the hay and oats of which they were bailees and which they turned over to O'Brien, McDougall & O'Gorman and that the price should be what it cost plaintiffs to put these articles at