

might be in the defendants' hands available for Ferguson on account of his contract. When the plaintiff wished to make a contract with the defendants in January, 1909, for ties, he wrote them direct.

So far I have dealt altogether with the plaintiff's own evidence. It appears, however, from the evidence of Deakes, the president of the defendant company, and of McLean, its superintendent of construction in this province, the only two officials of the company who had any personal knowledge of the work in the province, that they had nothing to do with Ferguson except as to his contract. that they knew nothing of the plaintiff's dealings with him, or of his contract with him, and had nothing to do with it. It appears from their evidence that in May Ferguson became dissatisfied with the way his work was getting on, and that they were dissatisfied also, and that as a result they had an inventory of his plant, house supplies, and property connected with his work with the exception of some few articles, and they paid him on the 5th of June, 1909, in cash, \$10,000, taking over his plant and supplies and releasing him of his contract and taking upon themselves the completion of the concrete work, and that since that time they have had nothing to do with him. They also state that they knew nothing of the plaintiff's claim until this action was brought, or about that time. In view of this evidence, it seems impossible to say there was any ground whatever, for the finding of the jury in answer to the first question. There is nothing whatever, in my opinion, to sustain the contention that Ferguson in making the contract was acting as the defendants' agent. Neither do I think there is the slightest evidence to sustain the second finding. In *Keighley Maxted & Co. v. Durant* (1901), A. C. 240, will be found very fully laid down what is necessary to be proved in order to hold a party liable on a contract made by a person without authority; but acting professedly for him and afterward ratified.

To apply the principle to this present case it would be necessary to shew that Ferguson professed to the plaintiff that he was acting for the defendants. There is really not a trace of any evidence to sustain this view. In the whole interview that took place the defendants' name is not mentioned except in connection with the Tobique Manufacturing Company account. What the evidence of ratification is, I have not been able to ascertain. All they ever did, so