

It is argued that the plaintiff rendered his account to the company; but the same thing took place in the Lakeman case (L.R. 5 Q.B. at p. 615); and the subsequent transactions between the parties were at least as favourable to the plaintiff's as to the defendant's contention.

The appeal should be allowed and the Referee's finding reinstated with costs here and below.

FALCONBRIDGE, C.J.K.B., LATCHFORD and KELLY, JJ., concurred, each giving reasons in writing.

Appeal allowed.

SECOND DIVISIONAL COURT.

DECEMBER 30TH, 1915.

CORBY v. PERKUS.

Mechanics' Liens — Claim of Contractor — Abandonment of Work—Time for Registration of Lien and Commencement of Action—Mechanics and Wage-Earners Lien Act, R.S.O. 1914 ch. 140, secs. 22, 23—Amount Due to Contractor after Allowance for Defects and Non-completion.

Appeal by the defendant from the judgment of the Local Judge at Haileybury in a proceeding to enforce two mechanics' liens, for work done and material supplied by the plaintiff under a contract for doing the excavation and foundation work of a building upon the defendant's land, the plaintiff contracting directly with the defendant.

By the judgment appealed from, the plaintiff was declared entitled to a lien for \$475.42 debt and \$179.62 costs, and the defendant was adjudged liable to pay these sums.

The appeal was heard by FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.

Gideon Grant, for the appellant.

H. D. Gamble, K.C., for the plaintiff, respondent.

KELLY, J., delivering the judgment of the Court, said that on the plaintiff's own evidence the lien could not be upheld. The plain meaning of the evidence was, that he abandoned the work on the 19th December, 1914, not again returning to it except on the 3rd February, 1915, in order, as he said, to pro-