

this occasion did you go to the office that you have spoken of as the office of the Toronto Construction Company?" A. "I did." Q. "When did you go there?" A. "The month of November, 1908." Q. "How long was that after you heard Mr. McCartney make this statement at Arthurette, about how long?" A. "I think it was over two months,"—two and one-half months, I could not tell exactly." Q. "You went there?" "Who did you find there?" A. "In the office I found Ferguson and McCartney." Q. "Tell us what took place there?" The witness then goes on to give the conversation which ended in the contract. Before going into that I must refer to a previous part of his testimony. After speaking of the office at Beaver Brook, to which he went in order to sell his lumber, his examination proceeds thus: Q. "At that time was there an office known as the Toronto Construction Company office there, at the time you were clearing?" (The plaintiff had before this had a contract with the defendants for clearing up a portion of the right of way for the railway). A. "You mean on the same track?" Q. "On the road." A. "Yes, at Beaver Brook." Q. "Known as the Toronto Construction Company's office at Beaver Brook?" The Court: "Was there an office at Beaver Brook known as the Toronto Construction Company's office, that is the question?" A. "I don't know as it was known; there was no sign over the office." Mr. Carter: "Was it known as that or not?" A. "It was generally understood that the people,—it was the Toronto Construction Company office." This evidence, irrelevant and inadmissible, as much of it is, is all that, up to the time of making the contract the plaintiff has to rely on in support of his first contention that Ferguson was in fact the defendants' agent. He then proceeds to give an account of the conversation between him and Ferguson. At first he said: "I made a trade with Ferguson. I asked him about lumber." That is no doubt exactly what he did do. When directed to give the conversation itself, he proceeded thus: "I asked Ferguson if he wanted to buy any lumber; he said he did. Then we talked about the price." The plaintiff, it seems, wanted \$12 per M., whereas Ferguson was only willing to pay \$11, and said he purchased from other parties at that price. The plaintiff says that Ferguson then took down from a nail in the office some bills from the Tobique Manufacturing Company to the defendants in which lumber was charged at \$11 per M. This was strongly relied on as shew-