

Richmond and *Carl* to the other defendant, *Redmond*, who then had notice of the plaintiff's title beyond all question, as appears from the evidence of his own witnesses and the defendants themselves. The defendant *Carl* asserts in his evidence that a verbal agreement was made with the plaintiff at the same time with the written one, that further supplies should be furnished if required, and that this agreement was not performed. The witness *Robertson* negatives any such agreement; and the defendant *Richmond*, while corroborating *Carl's* statement as to the fact, represents it as a mere voluntary understanding not intended to bind as an agreement, which receives countenance from the fact of its not being inserted in the written agreement. However, whatever it was, *Craig* or *Fuller* does not appear to have shrunk from compliance with it. The agreement with *Redmond* was not, I think, for security on the logs. It is remarkable that this fact is nowhere asserted either in the answer or the evidence; all that is said is, that the balance due to him was to be paid before the logs left the mouth of the river. It is clear that *Redmond* was informed of the agreement between the other defendants and the plaintiff when the first arrangement was made between him and *Richmond* and *Carl*; and I think the agreement with *Redmond* was subordinate to and founded upon the agreement with the plaintiff—namely, that it was that *Redmond* was to receive payment for half his advances every month out of the monthly advances to be made by *Fuller*, and for the other half out of the balance payable by *Fuller* when the logs should arrive at the mouth of the river. I think that *Fuller*, paying the monthly instalments to *Richmond*, and *Carl*, and the balance after the arrival of the logs, was to have the logs free from all claims on the part of *Redmond*, although perhaps *Fuller* might be bound to see *Redmond* paid out of the balance due from him, so far as it would extend.

1854.

Fuller
v.
Richmond.

Judgment