

CUSSON BROTHERS V. KING—LENNOX, J.—APRIL 17.

Contract—Work and Labour — Items of Account — Evidence.]—Action to recover \$1,423.43, alleged to be the balance due to the plaintiffs under a contract for railway work and moneys improperly retained by the defendant in the adjustment of the accounts between the parties. The action was tried without a jury at Ottawa. The first item in dispute was a sum charged to the plaintiffs in respect of insurance of their workmen against accidents. Upon this item, it was held that the plaintiffs failed. Upon the second item, painting and flooring, \$215.52, the plaintiffs were held entitled to succeed. Upon the third item, wood and firing, the plaintiffs failed. Upon the fourth item, work not included in the final estimate, the plaintiffs were entitled to recover \$30. Upon the fifth item, work upon the basis of force account, \$446.12, the plaintiffs were entitled to recover. The defendant should be allowed a further credit of \$38.73 for insurance. Judgment for the plaintiffs for \$652.91, with interest from the 20th February, 1914, and with costs. No set-off of costs to the defendant. R. G. Code, K.C., for the plaintiffs. G. F. Henderson, K.C., for the defendant.