

ing for sections of the Transcontinental Railway. They have at all events a contract for that portion of the work between Plaster Rock and Chipman, a distance of some one hundred and ten miles. With the exception of a comparatively small portion of the work, the defendants sub-let to contractors under them different classes of it, and among others of these sub-contractors was one C. H. Ferguson, to whom was given contracts for the concrete work over the whole of the New Brunswick section. There are two contracts, both dated June 30th, 1908, one for thirty-nine miles, and the other for sixty-seven miles. Under these contracts, Ferguson was to supply, at his own expense, the labour, tools, machinery, implements, plant, services, and materials, and to complete the work in the most thorough and workmanlike and substantial manner in every respect to the satisfaction and approval of the company and of the chief engineer on or before the 1st of May, 1910. The method of payment was this: Each month as the defendants received from the commissioners a payment on the progress certificate of the chief engineer in charge, they carried to the credit of Ferguson as one of the sub-contractors, his proportion of the amount, and against this he drew orders. The evidence shews that the defendants paid nothing for Ferguson except on his order. By a condition of the award of the contract to him he agreed that fifty cents a month should be deducted from each man's pay to provide for medical attendance, and this sum the defendants paid. In order that men should be paid promptly, and the work be in that way more likely to be prosecuted without delays and all liens of workmen avoided, the defendants on Ferguson's order paid the men and also other accounts for supplies as ordered, so that in June, 1909, when Ferguson gave up the work the defendants had paid him on his orders on account of his contract over \$101,000. This method of doing business seems to have been adopted by the company as to all its sub-contractors. At all events, it was so with the plaintiff who himself had a sub-contract for clearing a portion of the right of way in Victoria county. For the purposes of his work Ferguson required lumber cut to certain dimensions. The plaintiff though apparently a stranger to Ferguson, in November, 1908, went to Ferguson's place of business where he kept his office and supplies at Beaver Brook, and he and Ferguson then entered into a contract for the supply by the plaintiff of a quantity of lumber to