

The case of the suppliants rested largely upon two grounds: 1. That having purchased the limits upon certain conditions set out in the license, which is by custom renewable from year to year, they should not be bound by other conditions injuriously affecting their rights subsequently inserted without their consent, and without compensation for the injuries so sustained. 2. That the action of the Provincial Government in prohibiting the export of the logs was ultra vires as infringing upon the power to regulate trade and commerce exclusively vested in the Dominion Government.

We will first briefly refer to the second ground of complaint upon which the judgment is clear and we think conclusive.

The Government of Ontario does not prohibit the exportation of lumber. In effect it simply says that it shall not be exported in the shape of logs. The license does not vest the timber absolutely in the holder of the license. It gives him the right to cut timber during the period for which the license is issued, subject to certain conditions. Those conditions complied with, the holder of the license can deal with the timber as he pleases, and may export it or sell it at home as suits his convenience. If the contention of the suppliants was allowed to prevail a very serious interference with the rights of the province to deal with its own property would be established. The same rule would apply to minerals, and to many other articles. As was well put by Mr. Justice Street, the Dominion Government could have no power to decide in what way the property of the province should be dealt with, and if the province is not to have the power of regulating the manner in which its undoubted property is to be disposed of, in whom is that power to be vested? Furthermore the power of the Dominion to regulate trade and commerce is not confined to articles of export; and the contention of the suppliants, if carried to its logical conclusion, would establish the right of the Dominion Government to set aside any regulation of the province which affected the purchase or sale of its property. The point is an important as well as an interesting one, especially in view of the recent regulations by the Provincial Government regarding nickel and other minerals, and is, in our opinion, not dependent upon the rights of the holders of timber licenses under the terms of their licenses.

Into the other questions a very different element enters, and one not so easily disposed of. That element is the equitable right of the owner of the limit to a property which he purchased upon