

The Lumber Duty

By The Guide Special Correspondent

Ottawa, May 10.—At the present time Judge Cassels, of the Exchequer Court, is engaged in the consideration of a case, the final settlement of which will mean money in or out of pocket for every man in the West who uses lumber, and that means every farmer and a large number of residents of cities and towns.

On Friday last, in the presence of a number of people, including the representatives of the British Columbia lumber interests, and a few witnesses for the retail and farmer's side of the case, the Exchequer Court commenced the hearing of the government's test case of Foss vs. The Crown. It will be recalled that in November last, shortly after the new government came to office, the British Columbia lumbermen came to Ottawa in force and demanded that certain lumber which the former administration had permitted to come in free should be subjected to a duty of twenty-five per cent. Their contention was that this lumber was not rough lumber, dressed on one side only, and as such duty free, but that it was planed on two edges and subsequently roughened with a saw and clearly showed that it had been "further manufactured" and was therefore dutiable. Subsequent to the departure of the lumbermen new regulations were issued by the Customs Department calling for the collection of the duty on this class of lumber. The decision of the government created no small stir in the West, the result of which, so far as can be learned, was that the new regulations were not enforced and the duty, for the most part, not collected.

Minister Badly Mixed

Then, so the story runs, the American manufacturers found a way of edging and sizing lumber without the use of a plane at all, thereby, to all intents and purposes, conforming strictly to the section of the customs tariff, which says that all lumber dressed on one side only must be admitted duty free. In April last the Foss Lumber company, of Winnipeg, ordered a shipment of this sized lumber from mills in Washington state through a Seattle agency. When it arrived at Winnipeg W. E. Robinson, the manager of the company, applied for free admission of the shipment, but the collector of customs decided that it was dutiable and collected duty to the amount of \$77. The money was paid under protest and the matter was referred to Ottawa. Hon. J. D. Reid, minister of customs, was, apparently, not anxious to assume the responsibility of giving a decision and decided to ask the Exchequer Court to say whether or not "saw sized lumber" is dutiable. During the progress of the hearing of the case, or shortly after, the minister caused a statement to be sent out to the press of the country to the effect that in the opinion of the department this class of lumber should come in duty free. But the curious thing in connection with this somewhat complicated matter is that if such is the desire of the government there is nothing in the record of the case as it was submitted to the Exchequer Court to show it. Insofar as the documentary record of the case is concerned everything tends to prove a desire on the part of the government to uphold the action of the collector of customs at Winnipeg in making the Foss Lumber company pay up.

When Judge Cassels expressed a doubt as to just how the case had come before him Travers Lewis, government counsel, who upheld the action of the collector, said: "The collector made the ruling, the minister the reference; the ruling is assumed to be confirmed by the minister in the records of the department." Nothing could be more clear cut and definite than that statement. On the other hand there is this to be said, that W. D. Hogg, K.C., who argued the Foss Lumber company's side of the case, was retained by the government. Within certain strictly defined limitations he endeavored to prove that saw sized lumber is not dutiable, but it is, to say the least, curious that his assertions did not receive backing in the way of expert evidence by customs appraisers other than the Winnipeg collector. Were the government really serious in its declaration that it would like to see sized lumber declared to be duty free would it not have taken the trouble to submit such evidence? The thought is suggested that while the minister was anxious to have the idea go

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about to the prairie provinces that it was his wish to see this lumber admitted free he did not have the courage to have it so stated in the records of the case, because he did not desire to offend the B.C. lumber interests.

The record shows that the duty was collected by the government official and that this official act was upheld by the government counsel. What makes the matter look worse is that while the con-

trary side of the case was upheld by W. D. Hogg alone Travers Lewis was assisted by Eugene Lafleur, K.C., of Montreal, an eminent member of the Quebec bar, and by Geo. Cowan, ex-M.P., Vancouver, an exceedingly clever examiner of witnesses. They were retained by the lumber interests, but nevertheless the three to one fight gave the case a rather unhealthy look from the standpoint of the plain people on the prairie who will

pay more for their lumber if the contention of the collector of custom is upheld.

Expert Evidence

Although the lumber question is somewhat complicated Judge Cassels and the counsel on the two sides of the case managed to reduce the question at issue to one clearly defined point. Mr. Hogg materially assisted the court in arriving