

## AN IMPORTANT DECISION.

A CASE of considerable interest to lumbermen, especially saw mill men, was tried in the Saginaw, Mich., circuit court recently. It was that of Edward Germain vs. the Central Lumber Company, in which 800,000 feet of lumber was in dispute.

On April 23, 1896, Germain purchased 1,640,000 feet of lumber from J. W. Howry & Sons. The lumber was on the docks of the Central Lumber Company, which company is composed of Aaron T. Bliss, A. J. Cook and A. J. Linton. Mr. Germain stated that Mr. Linton showed him the lumber belonging to J. W. Howry & Sons and that he also pointed it out to A. E. Wilson & Co., who by the contract with J. W. Howry & Sons were to inspect it. Prior to July 17, 1896, Germain had shipped about one-half of the lumber. About this time J. W. Howry & Sons suspended payment, and the Central Lumber Com-

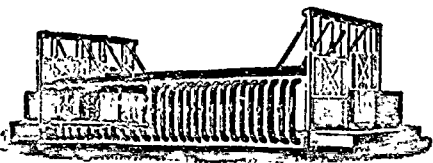
pany refused to allow the balance of the lumber to be moved, claiming they had a lien on it. The lumber was then replevined by Germain. This suit was brought to determine his rights to it.

In opening the case the attorney for the Central Lumber Company, Hon. Benton Hanchett, stated that "the Central Lumber Company had a contract with J. W. Howry & Sons by which it sawed about 7,000,000 feet of lumber for the Howrys; by the terms of the contract the saw bill was made a lien on the lumber. The Central had also given notes for the accommodation of J. W. Howry & Sons, and to secure their payment, a lien had been given on the lumber. By law the charge for sawing the lumber was a lien on the lumber so long as it remained in the possession of the company. The saw bill had not been paid in full. The notes had been given for part of it; that these notes were not payment, but merely promises to pay. The claim of the

Central Lumber Company against the lumber was about \$9,000. When Mr. Germain purchased the lumber from J. W. Howry & Sons he secured the rights J. W. Howry & Sons had in it; they could not sell other rights. Germain stepped into their place and the relations that bore to the Central Lumber Company were the same as those sustained by J. W. Howry & Sons. Mr. Germain knew that the Central Lumber Company sawed the lumber, and it was his duty to know whether the saw bill had been paid. J. W. Howry & Sons were the owners of the lumber—that is, the title was in them—and it was perfectly natural that the lumber should be designated by the Central Lumber Company as the J. W. Howry & Sons' lumber. This did not waive the lien the law gave them on the lumber for their saw bill.

Verdict in the circuit court for Germain. The case will be appealed by the Central Lumber Company to the supreme court.

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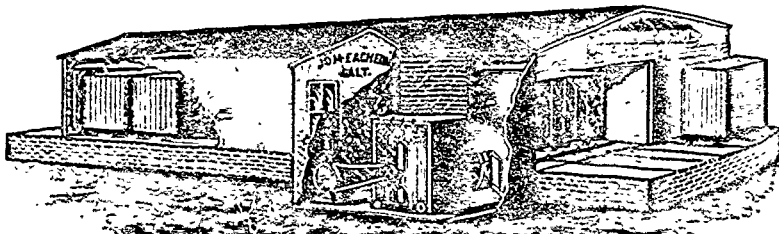
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