supply. The inability of manufacturers to obtain cars for lumber shipments has left lumber in the yards which was contracted for, and which, with ample transportation facilities, could have been sold many times over. Projects intended to be proceeded with this fall have been deferred, and orders for lumber cancelled. Some of this lumber may be carried over, with the consequent incidental expenses, until next spring, and then it may be found necessary to accept a price lower than that at which it was sold this fall, thus entailing a considerable loss to the manufacturer. Another result has been that retail dealers who have been unable to obtain lumber on account of the car shortage are encouraging the starting up of small portable mills in districts where they will be independent of the railways, of course, teaming the lumber to the retail yards. Thus the business of the larger mills will be affected, and there will be less prospect of maintaining prices on a profitable basis.

Observation leads to the conclusion that mills favorably situated have been fairly well supplied with cars; in other words, cars have been supplied only where it suited the convenience of the railways. Other manufacturers, less fortunate, have orders for hundreds of cars of lumber, placed two months ago, which were not shipped by the middle of October, and ocean steamers have left Montreal without half the lumber space being filled that had been contracted for.

It is a peculiar coincidence that since the 15th of October, when an advance on rail freights went into effect, the supply of cars has been much more satisfactory. From this the reader may draw his own conclusions. A situation such as has been encountered this fall emphasizes the necessity of a railway commission to regulate the dealings of the railways with the public.

EDITORIAL NOTES.

WHEN, we may ask, may the lumbermen expect from the Dominion government an answer to their memorial asking for an import duty on United States lumber coming into Canada? Even if the authorities are not disposed to grant the request, it would be some satisfaction to receive advice to that effect, coupled with the reasons why they consider Canadian lumbermen should not be placed on an equal footing with their competitors to the south.

THE news page of this issue bears evidence of the improved conditions now prevailing throughout the lumber trade of Canada. Encouraged by the increased demand for timber products, manufacturers in every province of the Dominion are taking steps in the direction of increasing their output by erecting new mills or making additions to existing ones. Antiquated machinery is being cast aside, to give place to more modern equipment capable of turning out a better product. Manufacturers of saw mill and wood-working machinery who hope to obtain their share of the benefit resulting from the good times should keep their names prominently before the trade. Do not rely on the motto that when business is brisk advertising is not necessary, otherwise your competitor will reap the cream of the trade, and when business becomes less prosperous, you will find that you have lost ground.

IT is indeed surprising that the lumbermen in the eastern provinces have so long adhered to the axe for the felling of trees. There seems no reason why the saw should not have been as generally adopted for this purpose in the east as it has been in western Canada. There are undoubtedly many advantages in favor of the saw, chief among which is the great saving of timber, a consideration which will become more important as our timber supply becomes reduced. By the use of the saw logs can be cut quicker and at less expense than with the axe, while it also does away with the necessity of experienced choppers. A few of the lumbermen in the eastern provinces some years ago recognized the advantages of the saw over the axe and adopted this method of felling trees, and others are gradually following their example, so that eventually the axe will be entirely superseded by the saw. One result of this will be an increased demand for saws.

THE ONTARIO TIMBER LAW.

THE hearing of the case brought by the Michigan lumbermen against the Ontario government to test the constitutionality of the provincial law applying the manufacturing clause to all Crown timber lands under license began at Osgoode Hall, Toronto, on November 7th, before Mr. Justice Street, and occupied two days. The proceedings embodied the submission of argument rather than evidence, only one or two witnesses being examined. The Michigan lumbermen were represented by Mr. Christopher Robinson, Q.C., and Mr. H. J. Scott, Q.C., while Mr. S. H. Blake, Q.C., and Mr. Gow were counsel for the Crown.

Mr. Scott, on behalf of the suppliants, opened the case. He said that the petition of right was filed by Mr. Smiley and the Canadian Bank of Commerce, who claimed to be the owners, or licensees, of certain timber lands in the province. Some of these were sold to the licensees in 1872 and the balance in 1885. He contended that the licensees were entitled to the renewal of the license each year in the same form as the old license, with the manufacturing clause omitted. Mr. Scott gave an historical review of the administration of the Crown Lands of Ontario down to the year 1845. In 1845 regulations were passed providing that the licensees should pay certain specified rates for the timber they might cut and should be entitled to a renewal of their licenses, which were issued for one season only, as long as they continued to cut on the limit and otherwise complied with the conditions required. In 1849 regulations were passed providing that timber should be cut at certain specified rates, and there was also a clause stipulating that licensees who duly occupied their limits should be considered as having a preference to renewal above all others. Regulations were adopted in 1851 which superseded the regulations of 1849; under these regulations a ground rent of 2s. 6d. for every superficial mile of timber land was exacted, in addition to the established dues. Thus for the first time was mention made of anything more than a payment for the actual timber cut. A different set of regulations were adopted in 1866, under which timber berths were sold to the highest bidder by public auction at an upset price of $4 per square mile. In 1869 other regulations came into force providing for the exploration of new timber berths and their sale by public auction, the upset price being fixed upon valuation. Mr. Scott reviewed at some length the legislation bearing on the subject passed by the Dominion, Provincial and United States governments, with which our readers are familiar. He contended that if it was held that the Legislature intended to confiscate the property of the Michigan lumbermen, then they maintained that the act was ultra vires; it was clearly an interference with trade and commerce.

Replying to Mr. Scott, Mr. Blake said that the Crown had always reserved to itself the right, as the needs of the country called for it, to make alterations in the law. This was apparent in the case of the increase of rent and in the imposition of higher dues where exportation was intended. While the act of 1849 provided that a license to cut timber might be granted subject to such conditions and regulations as might from time be established, it stipulated that no license should be issued for a longer period than twelve months. Every person who purchased property from the Crown was fully aware of the conditions to which they became subject.

Mr. Aubrey White, Deputy Commissioner of Crown Lands, was examined in respect to the details of his department. He stated that there were approximately 20,000 square miles of timber limits under license. From 1894 to 1898 the output of logs amounted to 715,000,000, of which about one-third was exported.

Mr. John Charlton, M.P., was examined by Mr. Scott. He would not say that the passage of the Ontario law prevented an agreement being reached by the Joint High Commission in regard to lumber, but its effect was certainly prejudicial. Mr. Charlton was questioned regarding the work of the Commission, but his evidence brought out little of interest.

Mr. Robinson then entered upon the argument for the plaintiffs. He said that under the law the licensees were certainly entitled to use their timber berths. Could it be seriously contended that the regulations meant that one year the government could sell a man timber berths and next year take them away from him? He contended that regulation did not include prohibition, but simply meant regulations as to the cutting of timber, and so on. The manufacturing clause applied to future new sales of timber berths and was not retrospective in its operation. He drew attention to the decision of the Privy Council as to what constituted matters of trade and commerce, claiming that the prohibition of the export of saw logs was strictly a matter of trade and commerce, and therefore should be controlled by the Dominion government.

Mr. Blake replied to Mr. Robinson, reminding the court that under the British North America Act the making of laws relating to the management and sale of the public lands and timber lands of the province was relegated to the provincial legislature. He then laid down the following principles as being correct: (1) A special or particular right of the province cannot be overruled by general and large powers of taxation. (2) Where ground is not claimed and is not entered upon by the Dominion, it will permit the province to go into that ground, although at a subsequent date it may be necessary for the Dominion, by its larger rights, to qualify something which the province has done.

Chief Justice Street reserved judgment.

Since the above was written judgment has been delivered, confirming the action of the government in imposing the manufacturing clause. The full text of the judgment will be found on another page.