

THE TRADE IN MONTREAL.

(By Our Own Correspondent.)



THE attention of dealers in dry goods is called to these facts—that trade is quiet even to dullness, that money is hard and tight and difficult of collecting, that the farmers as usual are holding back and are not turning their crops into money. They are implored to remember that one swallow does not make a summer, and that even a phenomenally good harvest will not correct all the ills from which this country has suffered for the past years, through three successive failures in crops and those other causes which have

operated against its prosperity and in common with that of other communities. And then the question is not yet settled whether the harvest this year was absolutely good, or only better than in the three preceding years. Taking it at its best, there is no probability that a period of more than proper prosperity is about to dawn. Certainly there are no evidences of it up to this moment, but all classes seem to have learned their lesson and are not attempting to create an artificial boom. There is no boom, there is no cause for one. In other years of plenty the fashion was to clap on more sail, to encourage inflation, to increase credits, to open new accounts, to neglect the collection of old and hard ones, to forget details and leave everything to work itself out of the common prosperity. This year it is different, and it is wise that it is so. There is much leeway to be made up, losses have to be retrieved, and at best merchants cannot hope in one year to more than equalize the profits of one year with another. They cannot do this much. The case of the farmer has not improved. Traders suspect that he has money and they are reminding him that the day of reckoning has come. They, in turn, are pressed upon by the wholesalers, who are making a strenuous effort to close up accounts in one way or the other. All paper must be met upon maturity this fall or else set down to the bad. What merchants want is a settlement, and a final one at that. They are getting their house in order and are determined to act on business principles, no matter who suffers. By the New Year matters will be in good shape and ready for the future, and if the present crop does nothing more than this, and it can probably do no more, it will have effected great things for this country. The fall trade is over, and it has been neutral, as the most of it was done from the distance of many months. The light buying of last spring was done in wisdom, since the weather has been entirely against the retail selling of seasonable fall goods. For a month the goods most in demand are those usually suitable for the late summer, since there were none of those sharp frosts which set men and women thinking and buying. The farmers are yet in the fields, though in the clay lands fall ploughing was impossible on account of the dryness, but it has kept them from the stores and lessened their need and desire for goods.

When country dealers are not selling fall goods they show no disposition to load up for next spring and travelers on the road report only moderate success. The ground is now well covered and samples are going forward as rapidly as they arrive. Those doing a sorting business are more hopeful, and hear a more confident note, and this is the first indication of better things. Of course all this does not mean that merchants are without hope and confidence. They have both, and with good reason, and those who can discern see in increased remittances a sign of coming movement. Since the tenth there has been a marked improvement in this direction, indicating that in the last few days the money is really beginning to move again and that in the month to come substantial gains will

accrue. The volume of trade is above that of last year and this is an actual basis for confidence. The city trade is active and a month of seasonable weather will effect a revolution before and during the holiday season. For these reasons wholesalers are more cheerful and if matters follow this course some houses that are now in the balance will cease to waver; but unless the improvement is decided and sudden two houses at least will go down and pull down several small ones with them. Prices are very firm all round and in several cases the mills have advanced some lines, principally checked shirtings from 7 to 10 per cent. Flannelettes are even scarcer and the market for wide goods is in good shape.

ILLEGAL PREFERENCES.

An important decision was given a few days ago by the Queen's Bench Division in the case of *Davies v. Gillard*, upon appeal by the plaintiffs from the judgment of Chief Justice Armour, who tried the action at Hamilton, dismissing it with costs. The action was brought to set aside a chattel mortgage as fraudulent against creditors. The trial judge found the facts against the defendants, but was of opinion that he was bound by *Molson's Bank v. Halter* and other cases to hold that the transaction could not be impeached. We may explain that it is laid down in *Molson's Bank v. Halter* that when a creditor obtains from a debtor on his urgency or desire for security for his debt, and the latter in consequence thereof gives such security, the mere fact of the latter being in fact insolvent at the time, and shortly after going into insolvency, does not, in the absence of any collusion or guilty knowledge on the creditor's part, defeat the transaction at the suit of the assignee or creditors. It must be the illegal intent to defeat, delay, or prejudice the creditors or to give a preference to one over the others, that brings it within the statute. In *Davies v. Gillard* the plaintiffs contended that there was no actual bona fide pressure within the meaning of the cases. The Queen's Bench Division allowed the appeal, reversed the judgment of the trial judge, and entered judgment for the plaintiffs, with costs of the action and of the appeal. Mr. Justice Falconbridge said: "It is a corollary of the findings of the trial judge that the pressure alleged to have been adopted here was not a bona fide pressure, but a sham pressure. While the amendment to the statute has been practically repealed by the recent decisions, yet the rest of the section remains to be construed as before the amendment was introduced, and finding, as I do, the pressure here to be a mere piece of collusion, I think the learned Chief Justice's decision should be reversed." Mr. Justice Street said: "The property which the debtor transferred to his creditor was all that he had left, and he knew that he had many creditors who could not be paid. When the debtor retains nothing he must be taken to have made the conveyance with the necessary intention of defeating and delaying his other creditors. See the judgment of *Jarvis, C. J.*, in *Graham v. Chapman*, 21 L.J.C.P. 173. See also *Wilson v. Day*, 2 Burr 827; *Newton v. Chantler*, 7 East 133; *Siebert v. Spooner*, 1 M. and W. 714; *Woodhouse v. Murray*, L.R. 2 Q.B. 634; *Phelps v. Hornstadt*, 1 Ex.D. 62. These cases, it is true, are all cases under the Bankruptcy Act; but I can see no reason why, although we have no bankruptcy legislation here, we should not adopt and apply the line of decisions to which I have referred; nor why, having adopted from the English law and followed to the farthest point to which its authors carried it, the unsatisfactory and artificial doctrine that pressure is the only proper test of a debtor's intention where he has transferred only a part of his property, we should take it up again where they have abandoned it for more reasonable tests, and should insist on applying it to cases where he has transferred the whole of his property, to which they never deemed it applicable. Therefore, notwithstanding the fact of pressure, and without losing sight of the distinction between the intention with which an act has been done and the effect of the act, we should find that the debtor made the transfer with full knowledge that its only and necessary effect must be to prefer the plaintiffs to his other creditors, and with the fraudulent intention of preferring the defendants over his other creditors, and therefore the transfer is void."