

WHY NEW LUMBER RATES ARE WRONG

Wimbish's Able Argument to Commission.

EFFECT ON LUMBER INDUSTRY

Public Interest Demands Restoration of Old Rates.

DESTROY LUMBER PROFIT

Advance, He Declares, Means Death to Interests by Driving Them From Markets—Roads Made Big Profit on Old Schedule.

doubted, said Mr. Wimbish, that the advance was the outcome of concert of action and previous understanding between the companies. Yet any understanding or combination, the tendency of which is to restrain competition between carriers, is unlawful, and justifies the presumption that such advances are unreasonable. The presumption that the former rates were reasonable necessarily implies that they afforded fair compensation for the service performed. To overcome this presumption, the carriers must show the cost of the service; that they have failed to do so, in the nature of things, cannot do. The rates on lumber, he said, are not too low, but are, perhaps, relatively too high, when compared with other traffic moving from the coast to transcontinental destinations.

CALLS REBATES BY ANOTHER NAME

Luce Admits Southern Pacific Offense and Attempts Defense.

BIG SHIPPERS GET FAVORS

Reduced Rates Enable San Francisco Firms to Kill Local Competition in Los Angeles—Secret Grain Rate Fools Farmers.

SAN FRANCISCO, March 12.—"Rebating is a term used for refunding below a legal rate. We are not in that business. We have done no rebating on state or interstate business. We are vouching between a class rate and a legitimate commodity rate."

WHY INCREASE IN RATES IS NOT RIGHT Detrimental to public interest by closing down mills. Drives Pacific coast fir and spruce out of Plains markets. Roads earn handsome profits on old rates. Advance is result of suppression of competition. Not justified by increased cost of operation. Carriers may not demand more than a fair compensation for service rendered. Advance will mean that short profits of lumber manufacturers. Create appalling forest waste in cutting only high-grade timber.



THE PRINCE AND PRINCESS OF WALES, WHO WILL VISIT GERMANY AND GREAT BRITAIN.

OREGONIAN NEWS BUREAU, Washington, March 6.—If the Interstate Commerce Commission decides the Pacific coast lumber rate case in favor of the lumbermen and against the roads, considerable credit for the victory will be due W. A. Wimbish, of Atlanta, Ga., leading counsel for the Washington lumbermen. In his closing argument before the Commission, Mr. Wimbish made a forceful presentation of the lumbermen's attack on the proposed advance, and wove together evidence in a way to strengthen their contention that there is no justification for increasing the rate on lumber shipped from the Pacific Coast to the Missouri River territory and points East.

Mr. Wimbish, in opening, stated that the reasonableness of a rate depends upon three considerations: Whether the public interest is promoted or retarded by the rate. This is paramount. Second, whether the carriers can afford to pay the rate, and third, whether the rate is more or less than sufficient to enable the carrier to earn a reasonable compensation for the service performed. He argued that the increase in the lumber rate would be a serious and unjustified burden on the public interest in that it has closed down thousands of men out of employment and making many of them public charges. Also because the increase, if enforced, would drive Pacific Coast fir and spruce out of the Plains and Great Plains region, leaving that section at the mercy of the Southern pine producers, who would then have a monopoly and be able arbitrarily to raise their own price. Second, he argued, the rate was unjust because purchasers in the Great Plains states could not afford to buy Pacific coast lumber at the price equal to the recent market price, plus the 10 cent increase.

investigation of the State Railroad Commission into the charges of rate discrimination against that company, which was resumed this morning. Mr. Luce was on the stand all day and was in turn interrogated by Attorney-General C. S. Webb, O. K. Cushing, attorney for the California Traffic Association, and Peter F. Dunne, representing the railroad company. It was established that the Pacific Hardware & Steel Company and Baker & Hamilton, of this city, had been granted a half rate to Los Angeles to fill orders from branch houses in competition with Los Angeles firms. Mr. Luce said that any other firm having branches in that city would have been given the same rate.

Old Rates Profitable. So to increase the price of Pacific Coast fir and spruce would compel purchasers in this competitive territory to turn to Southern pine, which is considered substantially the same as lumber from the West. Mr. Wimbish contended, in the third place, that the railroads against which suit was brought, are all earning handsome profits, and therefore are not justified in boosting the lumber rate at this time. If the lumbermen, operating at a loss, he said, they should increase their rates, and not single out lumber, which is a low-grade freight, carried at relatively low cost, and which has no risk. It might be true that lumber does not yield as great a profit as higher grades of freight, but he contended that in all instances the lumbermen and to the purchasers of lumber, the railroads should not require this commodity to pay an unreasonable portion of the expense of operation.

Blow to the Industry. This period of prosperity, however, so far as the lumber manufacturers are concerned, has passed the way, he added. Even if the lumber industry was highly prosperous, this would afford no justification for an increase in rates, which have been shown to be reasonably high and compensatory. That the carrier may not demand more than a fair compensation for the service rendered, is a thoroughly established principle of law.

Encourage Crushing of Rock. Asked by Mr. Webb why the E. B. & L. Stone Company had been granted a rate on the basis of its cost per ton per mile on crushed rock from the stations of Sather and Thomassen to all points on the Pacific system, Mr. Luce said it was done to encourage the industry and with the understanding that the firm ship 300,000 tons during the year, or 100 tons a day. The general freight agent, however, could not say that such orders were made on shipments of less than 1000 tons a day, explaining that during 1905, when this rate was in effect, the railroad was often short of equipment and could not furnish the necessary cars.

Mr. Wimbish quoted from James J. Hill to show that the old rate on lumber, when established, was not expected to be a minimum rate; indeed, Mr. Hill had led the lumbermen to believe that as time went on and traffic increased with the growth of the Northwest that the lumber rate would be reduced. On this presumption, the lumber industry had steadily expanded. Moreover, he argued that when a rate has been long in force and a large and important traffic has moved under it, the rate presumed to be reasonable, and if the railroads seek to increase such a rate, they must justify the advance. Moreover, he contended that when a carrier has prospered under a general schedule of rates, as have the Hill and Harriman lines, particular rates on a commodity constituting a large part of the tonnage, which rates have been long maintained, are presumed to be remunerative.

It is clear that the advance will shut Pacific Coast fir and spruce, and other species of lumber, out of the large traffic route, the Pacific Coast lumber under the higher rate, could no longer compete in St. Louis, Chicago and Detroit. Not only would this occasion a loss to the Pacific Coast lumber manufacturers, but it would deprive the public in those markets of the competition to which it is entitled.

Mr. Luce then explained that the Southern Pacific was "not in the rebate business, but vouching the class rate and a legitimate commodity rate."

Continuing his argument, Mr. Wimbish said it was to be fairly presumed that the old lumber rate, having been continuously in existence since 1880, was sufficient to compensate the railroads for the service rendered. The advance on November 1, 1907, was the result of a suppression of competition, and must therefore be presumed to be unreasonable. The increase was made uniformly by all the Hill and Harriman roads, and was announced simultaneously. It cannot be

As a matter of fact, said Mr. Wimbish, the amount of the increase will more than absorb the profits of the lumber manufacturers. This advance in rates represents a tax of \$2.75 per thousand feet on lumber, while the evidence shows that even the most prosperous lumber manufacturers have not realized and cannot realize any such profit on their product. To permit the advance would, therefore, not only destroy the profits of the business, but would also deprive the public of the workman, and the logger, a large share of their gross earnings, if, indeed, the business could survive any such conditions.

The Attorney-General then endeavored to establish the fact that the employment of the special rate gave Mr. Newman a decided advantage over all other buyers and shippers from those points and that the farmers, believing the price of wheat to be based upon the published tariffs, were being injured just that much. The freight agent explained that, so far as he knew, Mr. Newman was the only buyer and shipper from those points and that any other shipper would have been given the same low rate to prevent him from shipping by rail.

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