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PUBLICATION OF REPORT ON WAR CLAIMS

The report of the Advisory Commission on War Claims has now been published in accordance with the Prime Minister's statement in the House of Commons, March 7, 1952, and is available to the public.

This report was recently submitted to the Governor in Council by the advisory Commissioner on War Claims, the Rt. Hon. J.L. Ilsley, Chief Justice of Nova Scotia and former Federal Finance Minister. It is stressed that the Commission was acting in an advisory capacity only and was not recommending awards on undecided claims.

The report opens with a survey of war claims, deals with and makes recommendations concerning; establishment of a War Claims Fund, claims arising out of World War II, national status of claimants, claims in respect of death and personal injury, maltreatment.

In addition, many other pertinent matters are covered, such as claims for property loss and valuation of such claims, classification of War Claims, priorities, limitation of time for filing claims, and War Claims tribunals.

The report consists of approximately 100 pages and can be obtained from the Queen's Printer, Ottawa, Ontario, Canada, for fifty cents per copy.

II

JAPANESE PROPERTY CLAIMS COMMISSION

Claim No. 1388

Kagetsu -- Deep Bay Logging Company Limited

MEMORANDUM OF ARGUMENT FOR RECONSIDERATION OF AWARD AS TO COMPENSATION AND EXPENSES

Reilly, Macfarlane, Osborne & Henderson

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JAPANESE PROPERTY CLAIMS COMMISSION

Claim No. 1388

Kagetsu -- Deep Bay Logging Company Limited

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MEMORANDUM

OF

ARGUMENT

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FOR

RECONSIDERATION OF

AWARD AS TO

COMPENSATION

AND EXPENSES

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JAPANESE PROPERTY CLAIMS COMMISSION

Claim No. 1388

Kagetsu - Deep Bay Logging Company Limited

MEMORANDUM OF ARGUMENT FOR RECONSIDERATION OF AWARD AS TO COMPENSATION AND EXPENSES

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O U T L I N E

The Report of the Commissioner on this claim, dated March 24th 1950, indicates that the Commissioner has overlooked certain vital matters and ignored others that materially affect the result, to the serious prejudice of the claimant.

The items of the claim to which these matters relate are as follows:

1. Block 195, Cowichan Lake District:

   (a) Volume:

20

   (i) The Commissioner rejected the evidence of C. D. Schultz, one of the foremost forest engineers in British Columbia, and on the question of volume relied on the evidence of Eustace Smith, and Keith Shaw, manager of the Company which purchased the timber on sale by the Custodian. The Government scales of the timber taken off Block 195 since the sale by the Custodian show that an overrun of over 70% more than the estimates on which the Commissioner based the compensation has actually been taken off the

30

1 property up to November 1951 and logging operations are still in progress. These complete scale figures were of course not available at the hearing as the cut had not been made.

(ii) The Schultz cruise which was made in 1948 was in fact made on the basis of 1943 conditions and the Government scales bear out his estimates, yet the Commissioner stated that because of the

10 different conditions which prevailed in 1948 the Schultz cruise could not be considered as accurate.

(iii) Eustace Smith's cruise was not a real cruise at all a mere check of previous cruises.

(iv) On grounds which are patently unsound the Commissioner disregarded a cruise made by A. F. Sheehan which further substantiates the claim.

(b) Value:

The Commissioner valued this timber at only $3.00

20 per M.B.M. but the evidence amply justifies a figure of $4.50 per M.B.M.

2. The Deep Bay Property:

(a) Standing Timber:

(i) Volume:

(1) The Commissioner relied on the cruise made by Smith which was a mere check of a previous cruise.

(2) Schultz cruised this area at 56,500 M. The

30 Government scales up to November 1951 already

1 show an actual overrun of 100% over Smith's cruise, and there is still more timber to be cut. These scale figures were not and could not be available at the hearing.

(ii) Quality:

The quality of the timber in this area was unusually high and it was not, as the Commissioner found, a mere salvage operation.

(iii) Price:

10 The evidence amply justifies the price of $4.00 per M.B.M. claimed.

(iv) Additional Factors:

(1) The operation was a going concern when Kagetsu left, but nothing was allowed for this. The Commissioner made no allowance for compulsory taking and gave no reason for denying it.

(2) The removal of Kagetsu from the operation resulted in the loss of valuable personal

20 contacts.

(3) The terms of sale imposed by the Custodian had an adverse effect on tenders.

(4) Kagetsu was denied access to his records when drafting his initial claim.

(b) Felled and Bucked and Cold-Decked Timber:

(i) The value of this set by the Commissioner at $5.00 per M.B.M. should be increased to $6.50 per M.B.M.

30 (ii) On an additional 700 M. of cold-decked timber,

a further $3.50 per M.B.M. should be added for yarding, cold-decking and overhead costs.

(c) Immature Stands:

This claim should be revised upward to at least $5.00 per acre.

3. Logging Railway on Deep Bay Property:

This had a value of 50¢ per M.B.M. of timber, or a total value of $28,260.00.

4. Buildings:

The award should be revised to $4,000.00.

5. Costs:

The failure to award a proper item for expenses in connection with this claim results in the greatest discrimination against the claimant as there was no justification for failing to make such an allowance in this particular case. As the expense of presenting evidence in this case was exceptionally heavy (not due to any fault of the claimant) it is submitted that a special increased allowance should be made. The fact that the actual cut of timber since the sale by the Custodian on figures now available indicates that the Commissioner's figures are out of line by 70% to 100%, is ample justification for such an increased allowance.

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SUMMARY OF AMOUNTS CLAIMED IN RESPECT OF THE VARIOUS ITEMS SOLD BY THE CUSTODIAN, SHOWING COMPARISON WITH AMOUNTS AWARDED BY COMMISSIONER:

Block 195, Cowichan Lake District:

55,000 M feet at $4.50 per M.B.M.		$247,500.00	
Sale price		93,000.00	
Amount claimed		154,500.00	
Amount awarded:			
37,000 M at $3.00 per M.B.M.	$111,000.00		
Less sale price	93,000.00	18,000.00	
Amount now claimed			$136,500.00

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Deep Bay Property:

(a) Standing timber: 54,00 M at $4.00 per M.B.M.		216,000.00
(b) Felled and Bucked: 2,500 M at $6.50 per M.B.M.		16,250.00
700 M piled for loading at $3.50 per M.B.M.		2,450.00
(c) Immature Stands: 5,569 acres at $5.00 per acre		27,845.00
		262,545.00
Sale price (items (a), (b) and (c) sold in one block)		40,000.00
Amount claimed		222,545.00
Amount awarded:		
(a) Increase in volume of standing timber 3,000 M at $2.50	7,500.00	
(b) Felled and Bucked: 2,500 M at $5.00 less $4500. sale price	8,000.00	
(c) Immature stands: 5500 acres at $1.50	8,250.00	23,750.00
Amount now claimed		198,795.00

20

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1 Logging Railway, Deep Bay:

Value to claimant, 56,520,000 feet at 50¢ per M feet of timber	$ 28,260.00	
(Value to purchaser, 4½ miles at $2,500 per mile = $11,125.00.)		
Amount awarded	1,000.00	
Amount now claimed		27,260.00

Buildings:

Amount claimed	4,000.00	
10 Amount awarded	1,000.00	
Amount now claimed		3,000.00
TOTAL AMOUNT NOW CLAIMED		$365,555.00

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		Amount Claimed	Amount Awarded
1.	Block 195	$154,500.00	$ 18,000.00
20 2.	Deep Bay	222,545.00	23,750.00
3.	Logging Railway, Deep Bay	28,260.00	1,000.00
4.	Buildings	4,000.00	1,000.00
	Total amount claimed	$499,305.00	$ 43,750.00
	Less total awarded	43,750.00	
	TOTAL AMOUNT NOW CLAIMED	$365,555.00	

30

1. Block 195, Cowichan Lake District:

(a) Volume:

Sale to H.R. MacMillan Export Co. on basis of Smith's cruise.

This block was sold by the Custodian to H. R. MacMillan Export Company Limited on June 15th 1943 for the sum of $93,000.00. In respect of this timber the claimant seeks compensation of $154,500.00 on the basis that the actual value as of the date of sale was $247,500.00, being 55,000 M feet of timber (the volume estimated by Mr. Kagetsu himself, page 25 of transcript) at a value of $4.50 per M.B.M., the difference being the sum of $93,000.00 already realized. On this claim the Commissioner awarded a sum of only $18,000.00 on the basis of his finding that the stand contained only 37,000 M feet valued at only $3.00 per M.B.M., giving a total value of $111,000.00.

It can readily be seen that the claim and the award differ markedly both as to the value and as to the quantity of the timber.

Smith's and Schultz's reports.

In considering the acceptability of the tender received from the MacMillan Company prior to the time of the sale, the Custodian relied on a cruise made by Eustace Smith. Mr. Smith estimated that Block 195 contained 31,000 M feet of timber. The claim is based on a cruise made by Charles D. Schultz in late 1948. The Commissioner at page 6 of his report intimated that the difference in the volumes shown in the two cruises was due to a failure on the part of Mr. Schultz to take sufficient

notice of the factors of merchantability and accessibility as they affected the economic conditions of the forest industry between the date of sale and the date of his cruise, and to his failure to avoid the influences of changed conditions occurring subsequently to the date of sale. At this point, the Commissioner finds that it is unnecessary to reconcile the differences between the results of the two cruises as he feels that there is another method of arriving at an estimate of the timber contents of the Block, and that is by disregarding the two cruises altogether and relying on an estimate made by Mr. Keith Shaw.

Government Scales reveal inaccuracy of Smith's cruise.

The evidence from timber scales indicated that Block 195 and the adjacent Block 403 were logged together after the sale and that up to September 1948 a total of 58,752,003 feet of timber had been removed from the two blocks. From this point forward, all the Commissioner's findings in respect of this Block depend on the passing estimate made by Mr. Keith Shaw of the H. R. MacMillan Company that there was about 12,000 M feet remaining on the two areas. The actual words used by Mr. Shaw, after remarking that 58,000 M had already come off, were that he "hoped to get 70,000 M feet" (see page 913 of transcript). Mr. Shaw made no cruise -- he merely examined the area. The inaccuracy of this method of assessment is indicated by one of the witnesses -- apparently that was the old

method of cruising timber before the modern cruising methods were adopted (see transcript page 856, Smith). There is no comparison between such an estimate and a detailed, scientific survey such as was prepared by Mr. Schultz.

The Government scales of timber coming off this area from the time when the scales which were filed in evidence before the Commissioner were completed (58,752,003 feet by September 1948 at about which time Mr. Shaw made his estimate) to date show how inaccurate were the figures on which the Commissioner relied.

Government scales show over 70% overrun in excess of Smith's cruise and Shaw's estimate, with logging operations still in progress.

These subsequent scales show that a further 19,314,699 feet of timber has been cut up to November 1951, giving a grand total of 78,066,702 feet for the two Blocks.* And the logging has still not been completed. From this it is clear that there has already been a 61% overrun on the very estimate which the Commissioner used as the basis for his award to the claimant in respect of this Block.

19.3 Mill
12
7.3
= 61%
61/12

*(See Appendix "B")

A 19,314,699
B 58,752,000
C 78,066,699
C/B equals

Taking a more precise figure for Mr. Shaw's estimate -- 11,248,000 feet (70,000,000 less 58,752,000) -- the percentage of overrun is found to be 71.7%. This rough estimate of Mr. Shaw's is the basis of the Commissioner's finding with respect to Block 195 and furthermore, although this estimate has already been exceeded by nearly 72%, logging operations are still in progress.

1 In addition, the comparative smallness of the volumes shown as cut during 1951 is fully explained by the fact that adverse logging conditions seriously limited the duration of the logging season in that year. An exceptionally dry summer produced a fire hazard to combat which the Forest Branch of the Government curtailed logging operations over a considerable period.

10 With regard to Mr. Smith's cruise of Block 195 the following points should be stressed:

In the first place, it is scarcely credible that from 1923 when Mr. Smith made his first cruise of the Block until 1940 when he checked this cruise, the volume of timber on Block 195 should have increased only 1,000 M feet, from 30,000 M feet to 31,000 M feet, especially when one considers the increase in utilization which took place in the interval.

20 Further, any favourable assumptions that might be made with regard to the intensity of a cruise which reveals a 3% increase in the timber content of a large tract of land are in marked conflict with the fact that two years later it was again necessary for Mr. Smith and Mr. Shaw to visit the area in order to check for "peeler" logs.

30 The Commissioner makes the same criticism of the results disclosed by the timber scales and the estimate made by Mr. Shaw that he used as a

The Commissioner adjusts the timber scale figures and Shaw's estimate by 10% to conform to 1943 conditions and yet uses this point to attack Schultz's cruise.

basis for disregarding altogether the Schultz cruise: namely that they were based on economic conditions which varied considerably from those existing at the date of the sale. However, in the case of the scale reports and Mr. Shaw's estimate, the Commissioner makes an allowance for the variation in the conditions. He says at page 9 of the resport: "I consider that it is reasonable to estimate that 10% greater volume of then merchantable timber will have been removed in 1947 than a competent cruiser would have estimated to be merchantable in 1943". No reason is given for not applying this discount to the extremely accurate Schultz cruise.

Schultz cruise was in fact based on 1943 conditions.

If this were done, on the basis that the 55,000 M feet found by Mr. Schultz equalled 110% of the volume in 1943, an approximate figure of 50,000 M feet for 1943 is arrived at. Further, while we are prepared if necessary to agree to the 10% adjustment factor for varying economic conditions, it should be stressed that the Schultz cruise was in fact made on the 1943 basis and generous allowances were made in respect of breakage and logging conditions which are noted on page 1 of the Schultz Cruise Report, Exhibit 15, being 30% for cedar, 20% for hemlock and balsam and 15% for fir.

In the course of the inquiry it was disclosed that a cruise of this area had been made in 1925 by A. F. Sheehan who found a volume of some 49,720 M

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Sheehan's cruise.

feet. As this cruise was made at the same time as Smith's earlier cruise and on the same basis of utilization and as, if accurate, it would dovetail very well with Mr. Schultz's findings with regard to the area, it was necessary for the Government's case that the value of Mr. Sheehan's cruise be discounted. After Mr. Smith had seen Mr. Sheehan's Cruise Report and had "talked it over with him" (transcript, page 845, line 28) Mr. Sheehan wrote a letter dated April 5th 1943 recapitulating the position taken in his Cruise Report. Unfortunately Mr. Sheehan's testimony was not available to the Commission as he was not within the jurisdiction. However, a careful examination of Mr. Sheehan's original report, which is Exhibit 5, indicates that his subsequent letter (Exhibit 3 to Exhibit 36) is not an explanation of it, but a <u>refutation</u>. As suggested by Counsel for the claimant at the hearing (transcript page 1223) the whole tone of Mr. Sheehan's letter is that of a man who has <u>recanted at the suggestion of someone else</u>. While the letter says that the 1925 cruise was made with a view to "logging and milling the timber right there on the ground" and this is the view taken by the Commissioner in his reasons, an examination of the Cruise Report reveals otherwise.

The Sheehan report is set forth on five pages:

The first page is an analysis in the form of a table showing the results of the cruise and indicating that 62% of the timber was fir.

1 On the second page are some remarks by Mr. Sheehan. He refers to 6,000 M feet of fallen timber which he has not included but which could be taken out if a milling operation were carried on in conjunction with the logging. The tenor of all of Mr. Sheehan's other remarks concerning milling in conjunction with logging are along the same line as this one, namely that while the report is an ordinary cruise made without reference to the use of a mill in the woods Mr. Sheehan was strongly of the opinion from his examination of the area that such an operation would greatly increase the output to be obtained from the Block. The 6,000 M feet is not included but "if the timber is milled in conjunction with the logging ... all of this down timber (should be) accounted for" (Exhibit 5, page 2). The report continues: "There is another additional supply on the ground that if properly handled could be added to the estimate." "If a small portable mill were to be put in ... "

For the purposes of his cruise, Mr. Sheehan divided the Block into Lots A, B and C:
On Lot A he found 17,110 M feet of timber and he finds the fir to be 25% No. 1. He adds the following remark: "If a mill were operated in conjunction with the logging, the percentages of No. 1 stock would be increased ... " Mr. Sheehan then remarks what a fine output could be had from the comparatively small hemlock, larch and cedar if a sawmill were employed.

1 On Lot B Mr. Sheehan finds 16,390 M feet of timber containing fir which will run to 40% No. 1. and that "if operated in conjunction with a mill the No. 1 stock will be increased ... " There are similar remarks with reference to Lot A about the hemlock, larch and cedar.
On Lot C Mr. Sheehan found 16,220 M feet, but he makes no reference to a sawmill.

This view of the Sheehan Report was forcibly
10 presented in argument by Counsel for the claimant and at the time of the hearing the Commissioner appears to have agreed with it (transcript, page 1224, lines 17 to 21). However, in his report he discounts the Sheehan cruise altogether (page 8).

(b) Value:

With regard to the value per M.B.M. of the timber on Block 195 and on the Deep Bay property, there are certain factors which are common to
20 both: In the first place, both of these tracts were part of the small percentage of Crown granted timber existing in the Province and were hence royalty free, a circumstance which effects a saving to the operator of about $1.00 per M.B.M. (transcript, Byers at page 331, Brown at page 577). Further, the fact that the timber was Crown granted resulted in the additional advantage that in normal times the logs could be exported to more profitable markets (Schultz at page 1031). This advantage
30 was considered by Mr. Brown (page 570) to have an

Kagetsu's holdings were Crown granted and therefore royalty free.

1 added value of 50¢ to $1.00 per M.B.M.

Some attempt was made by Counsel for the Crown to draw a large distinction between sales made on a lump sum basis and those made on a stumpage basis, that is according to the amount of logs actually produced. However, while a lump sum payment produces immediate cash, the frequency with which overruns on the timber occur and the extent of those overruns when the cruise 10 on which the sale is based is unreliable or outdated, produce the result that in the long run sales on a stumpage basis net more money to the vendor. Further, contracts can be written on terms that the stumpage payments shall be dependent on the market price for logs in which case the benefit of a future rise in the log market is not lost to the vendor. On the whole, the manner of contract is very much dependent upon the parties 20 negotiating and the circumstances of the particular case, which is shown by the wide variation between the estimates of the expert witnesses on this point. Both Mr. Pretty and Mr. Byers considered that a 10% discount for cash was a reasonable amount to be allowed (transcript, pages 635 and 326 respectively)

Quality of timber unusually high. 30

There was a good deal of testimony to the effect that Block 195 contained a very high quality stand of timber, and there was also evidence that the situation was favourable for logging. Mr. Smith

in his report (Exhibit 53) says that he found "good logging grounds". Mr. Schultz testified that the nature of the ground made for easy road construction (transcript, page 516). With regard to the quality of the timber itself, Mr. Frederick Brown, a logger of some twenty-eight years' experience was able to say after an examination of the scales of the timber coming off this Block that the fir and hemlock were of a very good grade (page 578). Similar evidence was given by William Byers, timber broker and consultant and former Chief Scaling Supervisor of British Columbia. In his opinion, it was a very desirable type of timber as it contained percentages of the higher types of timber considerably above average (pages 264-265). Mr. Sheehan's Report (Exhibit 5) indicates that he thought this a very high grade of timber and this is especially apparent when one considers the relatively inferior utilization prevalent at the time of his cruise.

Cash value well over $3.00 per M.

The actual value of the timber on Block 195 at the date of the sale was considerably in excess of $3.00 per M.B.M. which was the basis on which it was sold to the H. R. MacMillan Export Company Limited.

The effective date of sale of Block 195 was found by the Commissioner to be June 15th 1943 (page 4 of his report). As evidence of the price of standing timber at the date of sale of Block 195, reference is made to the figures given on page BB29 of Exhibit 55, the Report of the Forest Branch for 1943, showing the average price on Government timber sales

during that year. The average price per M.B.M. of various species sold in the Vancouver Forest Area was:

Fir	$2.76
Cedar	$2.95
Hemlock	$1.48
Balsam	$1.42

Making allowances for royalty, value of exportable feature, and a 10% reduction for cash sale, we have the following:

	Stumpage	Royalty	Export	Total	Total less 10% for cash
Fir	2.76	1.22	.75	4.73	4.26
Cedar	2.95	1.22	.75	4.92	4.43
Hemlock	1.48	.60	.75	2.83	2.55
Balsam	1.42	.60	.75	2.77	2.49

It cannot be disputed that 10% would be the maximum deduction to be allowed for cash. The H. R. MacMillan Company acquired this timber for $3.00 per M.B.M. and were selling it, on the basis of the prices given by Mr. Shaw at page 902 , to the Stoltze Logging Company for an adjusted average price of $3.12 per M.B.M. If the deduction for cash is greater than 10%, the H. R. MacMillan Company would in effect be selling this timber for less than they paid for it, which is scarcely credible.

If these prices are applied to the percentage volumes found by Schultz, namely 39.6% fir, 32.9% hemlock, 13.7% balsam, 12.6% red cedar, 0.1% yellow cedar and 1.1% pine, it is found that the average price for the timber is $3.43 per M.B.M. But it

1 must be remembered that this determination is made without consideration of the following factors:

(a) the figures taken from the report were the average figures only, whereas the evidence clearly indicated that the quality of the timber in Block 195 was well above average and the exhibits from which these average figures were taken show that the prices actually averaged as high as $6.50 for fir

10 and cedar and $5.50 for hemlock and balsam in the higher grades. Taking for example the fir which Mr. Schultz testified averaged over the Province in 1944 3% No. 1, 52% No. 2 and 45% No. 3. The consolidated scale sheet attached to this memorandum, which has been taken from the Government scale records for Blocks 195 and 403, shows the fir to be 10.6% No. 1, 62.6% No. 2 and 26.8% No. 3. The difference between these grades and those for

20 the yearly average is obvious. Suffice it is to say that the average prices quoted above should be sharply increased before they can be applied to the timber in Block 195.

(b) The competition in bidding for the sales which are recorded in the report was severely limited because the size and nature of the stands meant that neighbouring operators only were interested (transcript, Byers, pages 275 and 357).

30 (c) The buyer would obtain title to the land in

1 the case of a purchase of Block 195, whereas in the ordinary timber sale no title passes.

(d) There were onerous covenants limiting the time within which the timber could be held before being cut in the case of the Government timber sales. The fact that similar covenants were exacted by the Custodian should be kept in mind when considering whether the sale price obtained by him reflected the fair

10 market value of the property.

These additional factors are sufficient reason to increase the appraisal of the timber on Block 195 to $4.50 per M.B.M.

Mr. Keith Shaw of the MacMillan Company gave evidence to the effect that shortly after the purchase of Block 195 by his Company, namely on August 10th 1943, a contract was executed by his Company with

20 the Stoltze Logging Company whereby the latter Company was to buy the logs off Block 195 at the following prices:

Fir and Pine	$4.50 per M.B.M.
Cedar and Yellow Cedar	$3.25 per M.B.M.
Hemlock and Balsam	$2.00 per M.B.M.

However, these stumpage prices varied and were to be increased to the current prices at the time the logs were scaled. At page 921 to 923 the Commissioner

30 gives a resumé of the provisions of the stumpage contract made between the MacMillan and the Stoltze

1 Companies, and even with the valuable provision that the price was to be on a sliding scale, he concludes with the remark that the provisions of the contract imposed an unusually heavy burden on the logger over and above what is normally in a logging contract. The figures above quoted and which were at one time the price at which the timber was sold to the Stoltze Company indicate an overall price per M.B.M. of approximately $3.12

10 on a percentage analysis of the Block from cutting records of 40.0% fir and pine, 10% cedar and 50% hemlock, balsam and others. Add to the figure of $3.12 the cost of the abnormal impositions upon the purchaser provided for in the contract and it will be seen that the contract is more inclined to show a value of $4.50 per M.B.M. than a value of $3.00.

The sale of the Deep Bay timber to Fletcher was on a similar basis.

20 2. The Deep Bay Property:

(a) Standing timber:

(i) Volume:

Smith's cruise only a check.

In the case of the Deep Bay property, liquidation proceeded on the basis of the estimate of Eustace Smith of 16,598 M feet as the volume of timber remaining on the land at the time of the sale. The evidence clearly shows that Mr. Smith's cruise of the area was made merely for the purpose

30 of ascertaining the minimum volume that it

contained. This is apparent from one of his reports to the liquidators (Exhibit 45, schedule 2) in which he says:

> "I made a general examination of the timber ... and while this was not a systematic cruise, the check I made should give a fair idea of the amounts accessible ... My check would indicate that the cruise ... is all there."

Further, the following appears in his testimony at page 863 of the transcript:

> "THE COMMISSIONER: The figure you estimate is a confirmation of the prior cruise rather than your own figures?
>
> A. That's right. After I had cruised it I felt sure the timber was there."

The testimony concerning the accuracy of the E. & N. cruises of the kind which Mr. Smith was checking indicates that it was quite usual for a purchase of E. & N. timber to cut a large overrun above the estimate which had formed the basis for the selling price. (pages 27, 28, 29 and 38, Kagetsu; and 383, Allison). There was also testimony to the effect that Eustace Smith's cruises were notoriously low (page 631, Pretty).

E. & N. estimates and Smith's cruises notoriously low.

It will be recalled, as mentioned previously, that the Commissioner stated that a 10% greater volume of then merchantable timber will have been removed in 1947 than a competent cruiser would

Schultz's cruise is a much more thorough examination.

1 have stated to be merchantable in 1943. The overrun on Mr. Smith's cruise is nearly 100% and it would appear therefore that, on the Commissioner's own reasoning, Mr. Smith would not be classified as a competent cruiser. The two cruises were made on entirely different bases -- one was a rough check, the other a careful inventory. Mr. Smith took five days with one other man (transcript, page 854) --

10 Mr. Schultz took eighteen days with three other men (page 1000). The cruises are in no way comparable.

On page 2 of Exhibit 61, which is Charles D. Schultz's report on his inventory of the timber in the Deep Bay area, it is shown that in making his estimate of the timber content of the Blocks Mr. Schultz deducted 30% for cedar and hemlock and 20% for balsam and fir to cover "breakage

20 and defect from inspection of the ground and timber conditions". The total deduction on this account was 11,143 M feet.

While Mr. Schultz included in his cruise a report on the volume of timber between 12" and 18" D.B.H., the claimant did not include any amount in respect of this timber in his claim, because of the possible doubts that might be raised as to its "accessibility".

30 The Government scale records show that from the time of the sale of the Deep Bay property to date, the following amounts of timber have

Government scales prove an overrun of nearly 100%

been removed:

To December 1948	16,721,024 ft. (Exhibit 22)
Jan. - Dec. 1949	5,852,700 ft. (Appendix "A")
Jan. - Dec. 1950	6,002,982 ft.
Jan. - Nov. 1951	2,654,128 ft.
TOTAL to Nov.1951	31,230,834 ft.

In addition, sufficient timber for several years' operating remains. The enforced closures due to exceptionally dry weather seriously curtailed the logging season during the year 1951 and this accounts for the drop in the volume cut in that year as compared with the previous years.

Subsequent events are tending more towards substantiating Mr. Schultz's findings of 56,500 M feet than either Mr. Smith's estimate of 16,598 M feet or the Commissioner's finding of 19,500 M feet, which included 2,500 M felled and bucked timber. It will be noticed that the Commissioner disregarded Schultz's cruise because he thought it showed 100% more than the E. & N. estimate, and yet the Government scales already show almost 100% more than Mr. Smith found in his estimate.

The evidence adduced by the claimant and the reports of the Forest Branch of the British Columbia Government prohibits any explanations of the difference between the reports of Mr. Smith and Mr. Schultz on the basis that Mr.

1 Smith properly excluded hemlock on his cruise of the area. In fact, the market for hemlock was very high in both 1943 and 1944 (transcript pages 99 and 105, Burke), so much so in fact that the large New Westminster Mill of the Alaska Pine Company cut hemlock in the main rather than fir in the early forties (pages 847-848, Smith). Some logging operators took out hemlock only in 1943, one being the Pioneer
10 Logging Company at Port McNeill (page 1095, Schultz). The report of the Forest Branch for 1943 (Exhibit 55 at page 22) shows that hemlock ranked as the next species to fir in the volume of timber cut in that year.

One of the reasons for the large divergence between Mr. Schultz's findings and those of the Commissioner is to be found at page 11 of the Commissioner's Report, lines 12 to 16. The
20 Commissioner says:

> "It was shown that the contractors for the MacMillan Company subsequent to purchase from the Custodian had cut and removed from the area up to September 1948 approximately 16,000 M feet, further that additional timber remained <u>of which no estimate was furnished at the inquiry</u>."

and at lines 31 to 32:

> "... leaving an undetermined quantity of
30 standing timber."

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The statement that there was no evidence of the remaining timber is not correct. Reference is made to Mr. Schultz's report of his findings (Exhibit 61, page 5) which indicates that Mr. Schultz cruised 29,999 M feet of timber 18" D.B.H. and over, and estimated an additional 9,800 M feet in areas which he had not cruised.

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Commissioner's finding means 4.5 million feet in 1948 when Schultz cruised 29.9 million and estimated a further 9.8 million.

The Commissioner's finding in respect of the Deep Bay timber was 17,000 M feet of standing timber as at the date of sale (bottom of page 11 of his report). The actual amount of timber scaled from the date of sale to December 1948 was 16,721,024 (Exhibit 22), but 2,500 M feet of this was already felled and bucked, leaving the amount cut at 14,221,024 feet. On the generous assumption that up to the time of the Schultz cruise in November 1948 only 14,000 M feet had been cut and for the sake of argument taking the Commissioner's adjustment figure of 10% and applying it over the <u>whole</u> period from the time of the sale, in order to translate the 14,000 M feet into 1943 figures we find that this cut represents approximately 12,500 M feet of the 17,000 M feet found by the Commissioner. If we take Mr. Schultz's finding -- 29,999 M feet cruised and 9,800 M feet estimated, making a total standing timber of 39,799 M feet and again merely for the sake of argument, applying the Commissioner's

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10% factor, we arrive at a comparable 1943 figure of 36,000 M feet for the whole or 27,000 M for the cruised timber alone.

This means that if the Commissioner's findings are to stand, the only conclusion can be that while the Commissioner's finding indicates that only 4,500 M of timber remained standing at the time of Mr. Schultz's cruise, Mr. Schultz in fact cruised 27,000 M feet of standing timber and estimated the total content remaining at 36,000 M feet -- and this is after making every concession against the accuracy of the Schultz report, although, as indicated above, Mr. Schultz conservatively has made very generous allowances in this respect in the report itself.

Government scales as indicated above already show that 31,230,834 feet have been removed as against 19,500 M the Commissioner estimated the stand to contain.

There is one further matter in respect of which the Commissioner has fallen into error in assessing the volume of the timber on the Deep Bay property. At page 11 of his report, lines 19 to 26, the Commissioner sets out what is to his mind strong evidence of the inaccuracy of Mr. Schultz's report:

> "The estimate by Schultz shows half as much timber on three blocks, two of which were partly logged, as the entire area was estimated to contain when bought by the claimants. Conservative as the E. & N. cruises are shown to have been, it is not conceivable that the total area contained 100% more timber than was estimated by E.

1 & N. Railway Company cruises which must be the case if the Schultz estimate is accepted."

This then is the basis on which the Commissioner has refused to rely on the painstaking and exhaustive enquiry made by Mr. Schultz and has relied instead on the general appraisal of Mr. Eustace Smith who was however only interested in seeing whether a previous cruise was "all
10 there" and whose cruise was not made on a systematic basis (transcript, page 829, Smith).

It will be noted that at page 11, line 3 of his report, the Commissioner says:

"There is evidence that the entire area of eleven blocks, when acquired by the claimants from the E. & N. Railway Company was estimated to contain 88,000 M feet."

This no doubt is the figure which the Commissioner has in mind when making his criticism of the
20 Schultz Cruise. In fact, as will be seen from Exhibit 63, the volume of 88,552 M feet represents the total of the E. & N. cruises for eight blocks only, namely Blocks 198, 256, 267, 276, 274, 504, 566 and 617. The same exhibit shows the volume on ten blocks as 96,585,100 feet. There was evidence that up to the time of the sale by the Custodian some 112,431 M feet had been cut from Kagetsu's Deep Bay property. Add to this Schultz's
30 estimate of the remainder at its full amount without any allowance for changed conditions,

that is 56,520 M feet, and a total of 168,520 M feet is arrived at as the total volume both before and after the sale. The difference between this and the E. & N. cruises is 71,935 M feet, which makes the overrun 74%.

If the 10% allowance is made on the Schultz cruise, the figure for the volume remaining at the time of the sale by the Custodian is 51,382 M feet. The total volume would then be 163,815 M feet, the difference between this and the amount indicated by the E. & N. cruise 67, 230 M feet and the percentage overrun only 70.0% which is considerably below the 100% which the Commissioner held sufficiently inconsistent with his own knowledge of the subject, of which he took judicial notice, to entitle him to disregard altogether the evidence given by Mr. Schultz as to the results of his cruise.

As indicated above, the Government scales will in a year or so show that 100% more timber has been cut than Eustace Smith estimated the Deep Bay area to contain at the time of the sale by the Custodian. Mr. Smith's cruise was, as has been shown, based on the prior E. & N. estimate. It follows therefore that the Commissioner's premise that any cruise which shows 100% more timber than the volume at which the lands was sold by the E. & N. must be disregarded, must itself fall to the ground. The more logical attitude would be to disregard any cruise which

shows 50% of the volume at which the timber is finally scaled.

In his comparison of the volume found by Mr. Schultz on three Blocks with the total volume disclosed by the E. & N. cruises, the Commissioner is no doubt referring to Blocks 617, 504 and 566, since Schultz shows these as containing the greatest amount of timber. The factors of merchantability and accessibility and the conservative nature of the E. & N. cruises rule out any possibility that the E. & N. cruises included timber below 18" D.B.H., and further the claim with regard to the Deep Bay property is limited as previously mentioned to timber of 18" D.B.H. and over. In order that the Schultz cruise may best be compared with the E. & N. cruises therefore the estimates for 18" D.B.H. and over only should be referred to.

As shown in Exhibit 61 on the consolidated table of volumes at page 26, the net volume of timber 18" D.B.H. and over which Mr. Schultz found on these three Blocks is as follows:

Block 617	18,602 M feet
Block 504	7,513 M feet
Block 566	2,331 M feet
TOTAL	28,446 M feet

Thus in fact Schultz has found about a quarter as much timber on these three blocks as the whole was found to contain by the E. & N. cruise, although

1 this comparison does not take into consideration so much of the 16,721 M feet as came off the Blocks between the date of sale and the date of the Schultz cruise. However, even if these three Blocks did contain half as much timber as the E. & N. cruises indicated the whole area to contain, this is not a sufficient ground on which to reach the conclusion that Schultz's estimated volume on the three Blocks is absurd

10 in the absence of evidence that the relative areas of all the Blocks and the quality of the timber stands on each were the same. In fact, the areas on the Blocks varied from as little as 387 acres for Block 256 to 1400 acres for Block 276.

Further, as mentioned previously the volumes estimated by the E. & N. are not a safe basis for comparison. Evidence was given that such estimates have always been low (page 383,

20 Allison) and that systematic cruising methods were not inaugurated until 1940 (page 829, Smith). Add to this the fact that some of the sales were made as far back as 1929 when utilization was considerably lower than at the date of sale by the Custodian and it is not surprising that the claimant and his successors should find such a large overrun. Mr. Smith, while undoubtedly capable of making a more

30 accurate cruise, was not called upon to do so on this occasion. The suspicions of Counsel for

the claimant were at once aroused when it was noticed that the estimate by the E. & N. of the volume for Block 617, namely 7,298 M feet, was identical with the volume report by Eustace Smith for that same Block. (See Smith's letter to P. S. Ross & Son, October 24th 1944, and his report of August 16th 1923 where he says "my check would indicate that the cruise of 7,298 M feet is all there", -- schedules 8 and 2 respectively to Exhibit 45). When asked to account for this on cross-examination, Mr. Smith first denied that any reference had been made by him to the earlier E. & N. cruise (page 860, transcript), but on reconsideration he admitted that what he had done was merely to check the E. & N. cruise (page 862).

(ii) Quality:

With regard to the quality of the timber in the Deep Bay area, the following opinions were expressed during the course of the hearing:

The grades in fir were very much above average. (Byers, page 257)

Mr. Schultz said "it is an extensive area and it is relatively speaking an easy country". (page 1079)

He took strong exception to the suggestion that all that remained was a salvage operation and to the suggestion that the bodies of timer remaining here were patches. (Page 1090)

1 In confirmation of Mr. Schultz's description of the operation, it might be pointed out that whereas the so-called patches which formed the Deep Bay timber sale measured respectively 994, 652 and 176 acres in size (see map annexed to Exhibit 61) the average size of Government timber timber sales in the Vancouver district in 1944 was only 164 acres (Exhibit 56, page 36). Fair sized operations have taken place in the area for six years.

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The Commissioner has accepted Mr. Smith's classification of the operation as one of salvage, but that conclusion must surely have been reached on the basis of the volume which he found the area to contain. As already demonstrated, the Commissioner was under a misapprehension as to the evidence which had been given and his classification of the operation as one of salvage must therefore fall with his findings as to volume. In fact, as Mr. Schultz's cruise shows, one-third of the timber content of the stand remained to be cut.

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(iii) <u>Price</u>:

Price should be $4.00 per M.B.M.

With regard to price, the evidence of sales of comparable stands of timber which occurred at or around the time of the sale of the Deep Bay property by the Custodian should be stressed. Mr. W. J. Allison, a well-known logger, referred to a purchase of 16,000 M feet of timber at

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Nanoose on Vancouver Island for a lump sum payment which worked out to $4.93 per M.B.M. (transcript, page 367). Mr. Allison thought therefore that $4.00 per M.B.M. was a very reasonable price for the Deep Bay stand (page 405). Mr. Schultz who had in fact seen the timber to which Mr. Allison was referring, testified that it was inferior to that contained on the Deep Bay property (pages 521, 1033). Mr. Brown gave evidence of a sale of a block of timber at Harrison Bay, British Columbia, in 1944 for a price of $2.75 per M.B.M. This block however carried royalty and the timber from it was not exportable and in Mr. Brown's opinion it would probably have fetched $3.75 or $4.00 if it had been royalty-free (page 577). Further, he gave evidence of a purchase of a block in 1945 eleven miles from tidewater and very comparable to the Deep Bay property for $4.75 per M.B.M. (pages 568 to 570). Mr. Charles N. Pretty, a timber broker, told in his testimony of a sale negotiated in 1943 on which the price was according to his calculations $4.75 per M.B.M. (pages 623 to 627). The size of this timber was comparatively small and Mr. Pretty suggested at least $3.75 per M.B.M. cash for the Deep Bay area timber.

The average bids received by the Government for timber sales in 1944 were as follows (Exhibit 56, page DD37):

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Fir	$2.57
Cedar	$2.95
Hemlock	$1.58
Balsam	$1.64

When similar allowances are made as were made with regard to Block 195 (see page 15 of this memorandum) we have the following result:

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	Stumpage	Royalty	Export	Total	Less 10% for cash
Fir	$2.57	1.22	.75	4.54	4.09
Cedar	2.95	1.22	.75	4.92	4.43
Hemlock	1.58	.60	.75	2.93	2.64
Balsam	1.64	.60	.75	2.99	2.69

According to the percentages of the various species found in the Schultz cruise (Exhibit 61, page 3), namely fir 32.5%, cedar 12.7%, balsam 7.8% and hemlock (in which is included all other species) 47%, the average price per M.B.M. for the stand is $3.44.

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Again noting the factors which have not been considered in this calculation -- the better than average quality of the Deep Bay stand, the slight competition which gave rise to the figures above quoted and the fact that title went with the Deep Bay land -- it is seen that a figure of $4.00 per M.B.M. is easily arrived at.

Additional factors.

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There are many additional factors which, while no numerical value can be set on them in order to ascertain the exact degree in which they have

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adversely affected the value of the claimant's property, must not be overlooked if justice is to be done.

Kagetsu's operations were a going concern when he left, but not sold as such

In the first place, the Commissioner has not set any value upon the fact that the claimant's logging operation was a going concern (transcript pages 43-44). In the words of Mr. Byers (pages 266 to 267) "it was very efficiently managed and as far as forest protection and utilization was concerned it was as good as any other" and "it was what we consider one of the better managed operations".

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10% allowance for compulsory taking refused.

Strong arguments were advanced by Counsel for the claimant that an additional award of 10% should be made for compulsory taking, as decided by the Supreme Court of Canada in Diggon-Hibben V. The King (1949) S.C.R. 712. The Commissioner has referred to this case at page 5 of his report but he merely says that the case is not applicable to sales made by the Custodian and gives no reason for this decision.

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Loss of value due to personal absence of Kagetsu.

The removal of the claimant from the field of operations upon the expropriation and sale of his property resulted in a loss to the timber operation of the benefits to be derived from the personal contacts established by the claimant. The chief one of these was an understanding between the claimant and the officers of the E. & N. Railway Company that he would have the option to purchase a large adjacent tract of timber.

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Terms of sale by Custodian resulted in lower price.

The terms of sale extracted by the liquidators were very unattractive to the industry(see Exhibits 28 and 46): there was to be no warranty of title, a provision for the immediate cutting of the timber (transcript, pages 726, 727,Wray) and a provision that the highest bid would not necessarily be accepted. Mr. Brown pointed out the adverse effect of the stipulation as to early logging as preventing any element of speculation for a future lucrative market from entering into the consideration of prospective purchasers and that this would have had a special value since at that time the upward trend of the timber market was well known (page 587).

There are certain other factors which most seriously prejudiced Mr. Kagetsu in making his claim:

Kagetsu was denied access to his own records.

After the time of his evacuation, he did not have access to records which were vital to the evaluation of the various properties. He was forced to rely on his memory and to resort to guesses even at the time of drafting his initial claim (pages 93, 115, 118, 137, 180 to 181, 184, Kagetsu).

Documents missing.

Further, certain documents which would have been of assistance at the time of the inquiry were not available because they had been lost. (page 481, Baldwin, and page 738, Wray).

For these reasons the early estimates which the claimant made as to the value and the size of

the logging operation should not prejudice the later claim made on the basis of more detailed information.

(b) Felled and Bucked and Cold-Decked Timber:

Price should be $6.50 per M.B.M.

There was some 2,500 M. feet of felled and bucked timber in the woods at the time of the sale. Since the Commissioner's finding of $2.50 per M.B.M. as the value of the standing timber was far too low and since the value of the felled and bucked timber is dependent on the stumpage price of the standing timber (page 13 of report), an increase should be made in the value of the felled and bucked timber equal to the amount by which the standing timber is considered to have been undervalued.

For a stumpage price of $2.50 per M.B.M., the Commissioner set a value of ~~$5.50~~ 5.00 per M.B.M. of logs cold-decked, so that an increase of the stumpage price to $4.00 means at the least that the value of the felled and bucked timber should be increased to $6.50.

700 M feet of cold-decked logs worth an additional $3.50 per M.B.M.

There is a further omission by the Commissioner which should be rectified. At pages 51 to 52 of his testimony the claimant pointed out that some 700 M feet of the felled and bucked logs had been piled ready for loading.

By reference to page 2 of Exhibit 62, the proportionate cost of this part of the operation can be determined. The cost of cold-decking is estimated to be $1.50 per M.B.M., the cost of

yarding alone (not including loading) can be considered as at least $1.50 of the total of $2.75 3.00 for the two operations. To this must be added a proportionate amount of the overhead which would very easily be 50¢. The total cost of piling logs ready for loading can therefore be considered to be $3.50 per M.B.M. and for the 700 M feet of timber which had undergone that further stage of the logging operation, a further sum of $2,450.00 should be awarded.

The award of $12,500.00 made by the Commissioner under this heading should therefore be increased to $18,700.00 made up as follows:

2,500 M feet at $6.50	$16,250.00
700 M feet at $3.50	2,450.00
	$18,700.00

(c) Immature Stands:

The value of this item as determined by the Commissioner at $1.50 per acre (page 14 of his report) is far too low and should be revised upward in line with the values shown on the letter from the British Columbia Forest Service which is copied on page 22 of Exhibit 61.

From this letter it is apparent that the Forest Service in estimating fire damage placed a value of up to $28.00 per acre for sixty-year stands in 1944. The Commissioner purported to make his award on the basis of the value of these lands to the claimant, and yet the value which the Commissioner

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has found is far below their value to the claimant.

It must be remembered that the claimant continued to pay taxes on these lands and in some instances had done so over a great number of years. The price of Government wild lands was $5.00 per acre (transcript page 1168, Smith) and even if that value were set upon the claimant's land the award would have been $27,500.00. Mr. Schultz's report shows a value of $7.75 per acre on the average (Exhibit 61, page 20) based on Forest Service values.

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In these circumstances, the award should be at least $5.00 per acre and the full award of $43,225.00 as claimed and as supported by evidence should be given full consideration.

3. Logging Railway on Deep Bay Property:

Logging railway had peculiar value to claimant

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The railway line at Deep Bay had a peculiar value to the claimant. Smaller logging operators, whose numbers increased greatly during the war, preferred to invest their money in trucking operations because of the smaller amount of capital and planning required for a successful operation. The majority of the smaller operators were not experienced in railway operations and this meant that the Deep Bay property had a greater value to the claimant or to any other logger who had had that experience.

Railway was worth at least 50¢ per M ft. of timber.

The claimant places a value of 50¢ per M feet of timber on the railway that existed at the date of sale. It must be pointed out that, contrary to the Commissioner's understanding (page 15 of his report), this value has not been set with a view to logging any lands other than those which

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are the subject matter of this claim. Mr. Eustace Smith, although he did not himself consider it feasible to use the railway, conceded that if put into use, it would have a value of 50¢ on every M feet of timber for which it was available (transcript page 807). Mr. Allison, a logger very familiar with railway operations, gave testimony to the effect that just prior to 1944 railway logging was supposed to be economical (page 367). At page 368 he testified that his company computed that a railway line had a value of 10¢ per mile per M feet of available timber. As the Deep Bay property contained eight and one-half miles of standard gauge railway, a claim of 85¢ per M feet would be justified.

Further, there was no evidence given as to the claimant's intention of converting to truck hauling, and judging by the fact that he had just spent $4,000.00 for a brand new speeder and by the success of the operation under his own management, it is clear that he had every intention of continuing to run a railway operation.

The value to the owner can therefore be considered to be 50¢ times 56,520, or such other amount as may be determined as the amount of standing timber remaining at Deep Bay at the time of sale.

Even if it is the value to the purchaser which is considered, which it is not, the value of $1000.00, set by the Commissioner for the four and one-half miles of road bed actually used, is too low. The amount awarded by the Commissioner works out at $225.00 per mile. The opinions as to the cost of roads in the Deep Bay area varied, but the figures $6,000.00 and $10,000.00 (page

1164) would seem to cover the range of opinions. Mr. Smith considered that the "break through" could be done for $4,000.00 per mile but that further surfacing work would be required. Even if it was necessary to widen the rail grade, the grade itself could not have had a value of less than $2,500.00 per mile, making a total value for the four and one-half miles utilized of $11,250.00.

The fact that the railroad was not itself sold is not conclusive evidence of the fact that it had no value. Astute purchasers, like the officers of the H. R. MacMillan Company, realized that by not bidding for the railroad, they would receive the use of the road bed gratis.

4. Buildings:

Kagetsu claimed for the value of his buildings, which consisted of 20 family residences, 10 bunk houses, a community hall, a new office, and eight other buildings, the sum of $4,000.00. They were insured for $10,000.00. (transcript, page 52, Kagetsu).

The Commissioner points out (page 14 of his report, lines 30 to 33) that various witnesses testified that these buildings were not suitable for Occidental crews (principally because the bunks were short) and were therefore valueless to an Occidental purchaser. However, they had a very real value to the claimant and, although the Commissioner makes a passing reference to this as a basis for compensation, he recommends an award of a mere $1,000.00, an obvious sop without any foundation in the evidence. This figure therefore should be revised upward to $4,000.00.

5. Costs:

In preparing his claim and conducting the hearing before the Commissioner, the claimant has incurred expenses in excess of $30,000.00, apart from Counsel fees. The Commissioner, however, obviously through an oversight, has failed to make any recommendation as to costs.

In the case of some of the claims, the award as to costs has been made on the basis of 5% of the total awards, but this is completely unsatisfactory in the present case, which was the largest claim before the Commission in British Columbia. The claims as to which the percentage was applied were almost entirely claims in respect of farming properties of small value and values were easy to determine. In those cases, no questions of increased utilization of timber, scaling, fluctuating market values, timber estimates and so on, arose.

The hearing went on for sixteen days and its detailed and complex nature necessitated the collecting of a mass of technical and expert evidence. More especially was this so because Kagetsu himself had, through the action of the Government, been forced to be absent from his operations for such a long period.

The value and importance of this evidence and particularly the major item of the Schultz cruise is borne out by subsequent events, for the Government records of the timber actually cut now prove Schultz's careful estimates to have been entirely accurate.

The proper basis for the settlement of the claim for costs is to make allowance for actual disbursements,

1 including travelling expenses and of course the costs of liquidation.

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APPENDIX "A"

TIMBER SCALED FOR T'SABLE RIVER LOGGING COMPANY
UNDER TIMBER MARK 2K9 IN F.B.M. (Exhibit 22 Figures brought up-to-date)

Deep Bay Area

	Mar - Nov 1946	Jan - Dec 1947	Jan-- Dec 1948	Jan - Dec 1949	Jan - Dec 1950	Jan - Nov 1951	Totals
Fir							
#1	113,489	325,136	384,142	258,508	263,728	146,489	1,491,492
#2	1,308,632	1,532,655	2,425.077	1,902,943	2,380,671	822,311	10,372,019
#3	611,103	407,424	1,179,066	1,157,388	1,246,673	291,118	4,892,772
TOTAL	2,033,224	2,265,215	3,988,215	3,318,639	3,891,072	1,259,918	16,756,283
Cedar							
#1	72,518	144,809	12,861	41,193	84,422	19,346	375,149
#2	573,992	1,050,391	354,546	358,039	396,952	217,933	2,951,853
#3	455,187	667,435	646,138	518,246	665,819	216,212	3,169,037
TOTAL	1,101,697	1,862,635	1,013,545	917,478	1,147,193	453,491	6,496,039
Hemlock							
#1	22,198	63,865	51,030	51,358	112,534	32,082	333,067
#2	149,241	625,703	177,038	166,872	265,588	108,115	1,492,557
#3	400,528	876,093	392,231	719,365	310,998	388,355	3,087,570
TOTAL	571,967	1,565,661	620,299	937,595	689,120	528,552	4,913,194
Balsam							
TOTAL	397,774	617,655	300,097	463,971	257,021	312,665	2,349,183
Cypress							
#1			1,985		1,051	3,031	6,067
#2		31,274	33,444	10,405	512	17,080	92,715
#3	8,727	80,387	97,751	66,600	3,307	47,172	303,944
TOTAL	8,727	111,661	133,180	77,005	4,870	67,283	402,726
Pine							
#1				1,322			1,322
#2	619	9,949	19,749	49,358	1,297	18,180	99,152
#3	22,941	26,519	26,715	40,363	1,667	14,039	132,244
TOTAL	23,560	36,468	46,464	91,043	2,964	32,219	232,718
Others							
TOTAL	10,094		12,886	46,969	10,742	-	80,691
GRAND TOTAL	4,147,043	6,459,295	6,114,686	5,852,700	6,002,982	2,654,128	31,230,834

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APPENDIX "B"

TIMBER SCALED FOR STOLTZE LOGGING CO. LTD. UNDER TIMBER MARK 1C6

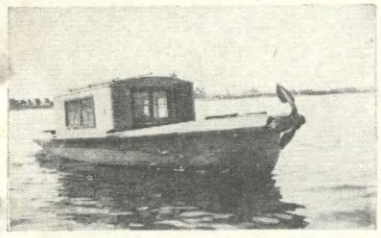
(Exhibit 23 brought up-to-date)

Cowichan Area (195 & 403)

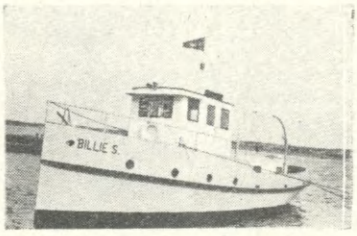
	Feb - Dec 1944	Jan - Dec 1945	Jan - Dec 1946	Jan - Dec 1947	Jan - Dec 1948	Jan - Dec 1949	Jan - Dec 1950	Jan - Nov 1951	Totals
Fir									
#1	81,251	553,026	776,770	604,130	800,049	309,818	69,101	123,296	3,317,441
#2	3,393,636	2,887,834	2,939,085	2,900,708	2,686,995	2,440,392	1,138,298	1,178,864	19,565,812
#3	1,407,226	920,978	1,101,860	1,439,071	1,245,839	989,182	629,660	639,114	8,372,930
TOTAL	4,882,113	4,361,838	4,817,715	4,943,909	4,732,883	3,739,392	1,837,059	1,941,274	31,256,183
Cedar									
#1	6,012	77,362	281,007	173,725	37,002	31,915	3,085	16,904	627,012
#2	210,843	715,637	1,650,139	1,022,661	607,303	218,942	75,333	97,568	4,598,426
#3	468,019	480,726	1,008,924	892,132	603,491	374,696	242,360	215,591	4,285,939
TOTAL	684,874	1,273,725	2,940,070	2,088,518	1,247,796	625,553	320,778	330,063	9,511,377
Hemlock									
#1			173,344	171,198	65,485	61,937	12,464	6,135	490,563
#2			703,714	1,015,573	690,760	670,097	198,893	85,949	3,364,986
#3			1,777,399		974,475		842,889	334,328	3,929,091
Ungraded	3,448,950	2,242,028	1,073,982	3,766,046	1,879,727	2,669,271			15,080,004
TOTAL	3,448,950	2,242,028	3,728,439	4,952,817	3,610,447	3,401,305	1,054,246	426,412	22,864,644
Balsam									
TOTAL	32,786	569,580	4,079,933	4,391,897	2,286,804	743,363	19,631	64,525	12,188,519
Cypress									
#1			11,316	54,797	25,258	7,007			98,378
#2		1,976	61,318	240,054	86,656	9,511	2,361	360	402,236
#3		3,243	57,369	316,423	116,841	11,082	2,388	4,383	500,647
TOTAL		5,219	130,003	611,274	228,735	27,600	4,749	4,743	1,012,323
Pine									
#1	1,238	6,318	2,194		4,461	3,988			14,211
#2	124,639	118,971	47,610	10,282	42,927	78,315	44,154	1,258	468,156
#3	67,525	59,112	23,862	10,157	30,086	52,741	33,807	625	287,915
Ungraded			110,750	223,577					334,307
TOTAL	193,402	184,401	184,416	244,016	77,474	135,044	77,961	1,883	1,098,597
Others	2,483				19,770	109,006	3,800		135,059
GRAND TOTAL	9,244,608	8,636,791	15,880,576	17,232,431	12,203,909	8,781,263	3,318,224	2,768,900	78,066,702

Looking for Business!

Once again we are in a position to look after your requirements for "STEELCRAFT" marine logging equipment. Our war-time experience will enable us to make our civilian products, such as these standard tug models, better than ever.



26-foot Steelcraft Winch Boat, with Power Winch and 2000 feet of 7/16" steel cable, coupled to 20 H.P. Gas or Diesel Engine.



45-foot Steelcraft Standard Tug, without machinery, but powered with 200 HP Diesel Engine, for general use.

35-foot Steelcraft Warping Tug, with Power Winch Set and 4000 feet of 5/8" steel cable, coupled to 50 H.P. Gas or Diesel Engine.

These are only three of the many models we have produced. Other products include hill brakes, hand windlasses, hydraulic steering gear, supply scows, industrial craft of all kinds ranging in size from 20 feet to 100 feet in length.

Limited production space is still available for Fall, and orders booked now will receive preferred attention for Fall of 1945 or Spring of 1946.

STEELCRAFT

RUSSEL BROTHERS LIMITED

OWEN SOUND ONTARIO

"STEELCRAFT" for "SERVICE"

(2)

SALVAGE OF LOGGING WASTE

Summary of an Address by Harold S. Foley, President of the Powell River Company, at the B. C. Truck Loggers' Association Convention at Vancouver, B. C.

For many years the Powell River Company, in common with many other operators in this Province, had given attention to the problem of finding some economic use for the large volume of wood left in the woods following normal logging operations. In the early months of 1942, however, the log supply situation became increasingly acute and our company directed David Stenstrom to conduct an investigation into the feasibility of salvaging and processing logging waste.

Mr. Stenstrom's report was presented to Archie Deland of the Powell River Company on April 27, 1942. This report indicated that 40 to 50 per cent of the total volume of wood on each acre of forest land was left following logging operations. This wood consisted of small standing timber, young timber knocked down, hemlock butt logs too heavy for towing, splintered logs and so forth. It was understood, of course, that much of this wood could never be economically recovered in the foreseeable future. It is interesting to note, however, that the Florida operators are now extracting the stumps and are selling them to Du Pont for 10 cents apiece. In any case, it was agreed to proceed with the costly and time-consuming experiment which would be necessary to test the feasibility of extracting and processing some of this salvage material.

An agreement was reached with Bob Filberg of the Comox Logging and Railway Company, and their Ladysmith operation was chosen as the site for the experiment. The Forest Branch provided the services of a trained forester, A. P. MacBean.

Operations began at Ladysmith in the early spring of 1944 and the first raft of bundled wood arrived at Powell River in June, 1944.

The Ladysmith area had previously been logged down to top diameters of nine or ten inches, and this original logging had produced some 30,000 feet per acre. Sixty-six per cent of this volume had been fir, 27 per cent hemlock, and the remainder white pine and cedar. Relogging produced 18 cords per acre, of which 76 per cent was hemlock, 18 per cent fir and the remainder pine and cedar.

You have a better knowledge than I of the obstacles which must be overcome in getting this material out of the woods at a cost even comparable to normal logs.

At the pulp mill we have the problem of handling nine times the number of logs to obtain the equivalent volume of normal logs. There are the problems of the greater dirt-making properties of the salvage material, the duplication of investment required by the erection of special breakdown equipment, the irregular mixture of species, the additional cost of sorting, and, not least of all, the very important problem of maintaining the quality of our finished products.

What I should like to do here, however, is to enumerate certain basic principles which have been adopted by the Powell River Company, a ed by the Powell River Company, and which, I trust, will serve as a guide to anyone who wishes to evaluate the salvaging of logging waste.

Here they are:

1. The company recognizes that the utilization of so-called logging waste is desirable in the interest of the Province as a whole — I don't think that there can be much criticism of that statement.

2. The company recognizes that in various parts of the world, material, similar to that left in the woods following normal logging operations in British Columbia, is used by all wood-using industries for the production of lumber, plywood, miscellaneous wood products and pulp. However, no unqualified comparison may be justly made between operating conditions in this Province and in other areas of the world. Account must be taken of competition, direct and indirect government subsidies, tariff protection, wage levels, investment and other operating costs.

3. The use of so-called logging waste must not be forced upon any *one* of the log-using industries, nor upon any one *unit* of a log-using industry. Such a suggestion has no sound economic basis and I cannot conceive of any government which would enact such discriminatary legislation.

Unfortunately, there are some who believe that by initiating the Ladysmith-Powell River experiment, the Powell River Company believed that the pulp industry may be in a position to consume all or the greater part of this salvage material. That has never been our belief. We assume that each of the log-using industries will make a sincere effort to absorb its share of this so-called logging waste.

In this connection, I have a telegram here from the Brooks-Scanlon Corporation of Florida, the largest producers of lumber in the South. It is dated January 16th and it reads:

"We spot checked our log records during 1944 and found the following: *Average* top diameter 7.38 inches: average length 33.3 feet; average log scale 67.4 feet, Doyle Scale."

4. Whatever basis may be established for the scaling of and the payment for so-called logging waste, that basis must be the same for all of the log-using industries. — We believe that a difference in the scaling or basis of payment for logging waste between the log-using industries would be no more just than a stipulation which required an ice cream manufacturer to pay a price for his sugar different from that paid by a candy manufacturer or which required one to buy his sugar on a poundage basis and the other on a volume basis.

5. The company finds that so-called logging waste is of inferior quality as compared to normal logs, and that the cost of processing this material is higher when all factors are taken into account.

6. If the logger cannot bring out this material from the woods and sell it at a price low enough to make its use attractive to the log-using industries, and if the government *require* that it be brought out from the woods, then it becomes the duty of the government to bring about a set of circumstances which will allow it to be logged on an economic basis. In this connection, various sound suggestions have been made that the government decrease its royalties on this salvage material, that it waive royalty altogether, and, if necessary, subsidize its extraction.

7. Finally, the company believes that if the price is attractive enough to make the use of this material an economic possibility, the log-using industries will find a use for it, despite its deficiencies in quality and its higher cost of processing.

There is one problem in which I am sure you are all interested. That is the problem of scaling this small material. A suggestion has been made, and it is only a suggestion, that the B. C. log scale be used for all logs down to eight inches top diameter. For smaller logs it is suggested that their cubic content should first be measured and that, knowing the cubic content of 1,000 feet B. C. log scale of eight inch logs, these small logs on the basis of their cubic content be converted to so many feet, B.C.L.S. of eight inch logs. Payment would then be made on this basis at whatever price is established for small logs. No one is yet in a position to say that this is sound; nor is anyone in a position to say what the small log price might be.

In conclusion, I should like to point out that the success of the Ladysmith-Powell River and similar experiments will depend entirely upon the wholehearted support and effort of everyone. Each of us, the logger, the sawmill operator, the pulp mill and the government has an equal responsibility.

For the industry, the success of salvage logging will mean an entirely new source of raw material. For the government and the public, success will mean an entirely new source of employment for the citizens of this province. Many man-hours of employment will be required to handle and process this material. It is quite possible that a joint farming and logging economy might arise in some salvage areas. During the slack season in agriculture, the farmer might find useful employment in the salvaging of logging waste.

I should like to emphasize that all of the experience and knowledge that has been gained in the Ladysmith-Powell River Experiment is available to each of you here. I need not add that any help you may give us, in solving the problem of extracting and utilizing so-called logging waste will be deeply appreciated by myself and the company.

CHARCOAL CANNOT BE MADE OUT OF GREEN WOOD

W. F. Schaphorst, M.E.

To some readers it may seem odd that such a statement as the above should be made — that "charcoal cannot be made out of green wood". But, believe it or not, there still are men in this world who don't believe it and who are willing to spend good money on a plant believing implicitly that they will succeed where all others have failed.

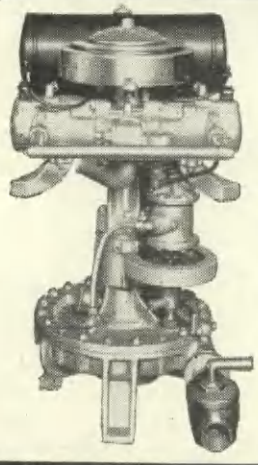
For example a man who "thought he knew" recently built a plant for making charcoal in the midst of a wooded section and he was asked by one of the inhabitants, "Where are you going to get your dry wood? Are you going to dry it yourself"?

"I'm not going to use dry wood", he replied, "I am going to make it out of green wood. That's why I located here right in the woods".

"But you can't make it out of green wood", the inhabitant remonstrated.

Whereupon the man got some green wood from a newly felled tree, built a fire, threw the green wood on the fire, and said, "See the green wood burn? Green wood burns nearly as well as dry wood. Anything that will burn can be converted into charcoal".

But upon completion of his plant this man found to his sorrow that he was wrong and at this writing his plant is "shut down", waiting for dry wood. That is, he was all ready to start, but he never got started, hence one can hardly say that he has "shut down", but that is what he calls it.



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HYSTER COMPANY CHAIRMAN DIES

Amedee H. Smith, 76, pioneer west coast industrialist, died March 25 in Portland, Oregon.

Chairman of the board of directors of the HYSTER COMPANY; president of the Willamette Iron & Steel company; a director of Portland General Electric company and president of the Oregon Paramount corporation, Mr. Smith was one of the best known business leaders of the west coast.

At various intervals he was president of the Oregon Terminals, Inc.; president, Masonic Temple association; president of the board of trustees of Willamette University; vice president, Ochoco Timber Company; director, Ochoco Lumber Company; president, Portland Chamber of Commerce, 1933-1934; served terms both as treasurer and as president of the Red Cross from 1917 to 1923; and president of Portland Community Chest.

Mr. Smith was one of the formulators of the Oregon Workmen's Compensation Act.

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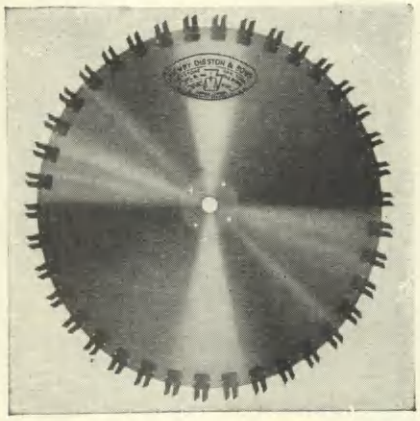
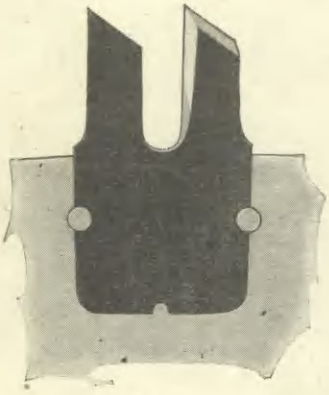
NO COSTLY HOLD-UPS . . .

with Disston 2-prong Inserted Tooth Slash Saw!



Made in Diameters from 36" to 48" to specifications.



Disston 2-prong Inserted Tooth Slash Saws keep production "in high"—they can be depended on for efficient, continuous performance. The big advantage of this type of Slash Saw is that the teeth can be replaced when worn or damaged. Teeth too, are high in temper, thus giving superior edge holding quality.

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U. B. C. GETS BIG GIFT

Through H. R. MacMillan, outstanding figure in the timber and fishing industries in British Columbia, the University of British Columbas has been tendered a gift of $47,-500.

Mr. MacMillan himself is donating $22,500 for the strengthening and expansion of UBC's work in forestry, as well as establishing a $2,500 revolving loan fund to assist forestry students who may require additional money in order to enable them to complete their university training.

The board of directors of British Columbia Packers Limited is contributing $22,500 to enable the University of British Columbia to appoint a professor of fisheries, thereby strengthening and expanding UBC's work along that line.

Dr. Norman A. MacKenzie, UBC President, expressed the gratitude of the board of governors.

"Mr. MacMillan is particularly interested in the work in silviculture and forest management," he explained, "for he feels that it is of the utmost importance that we in British Columbia should have the best and most recent information available in respect of maintaining and, where possible, increasing a sustained yield from our forests on a permanent basis."

Dr. MacKenzie says that Mr. MacMillan's $2,500 loan fund will be administered by the University Committee on Scholarhsips and Bursaries, in consultation with members of the Department of Forestry, and Dr. J. N. Finlayson, dean of Applied Science.

Dr. MacKenzie says further that the directors of B. C. Packers are interested in "problems relating to the conservation of the fisheries and the ensuring of a continuing supply of commercial fish, and feel that we in British Columbia should have the best information and advice possible in respect of the protection of the spawning grounds and other similar matters."

•

FUTURE TIMBER RESERVES

Timber reserves for 1960 are making growth on 8,000 acres of land north of Thessalon, considered worthless 20 years ago, forestry officials said. The land, abandoned by farmers as non-productive, was bought by the Department of Lands and Forests.

AVERAGE PRICE OF LOGS ALL GRADES

1948

	FIR	CEDAR	HEMLOCK	BALSAM	SPRUCE	WHITE PINE
January	$45.71	43.97	37.23	37.12	38.29	50.51
February	$45,22	43.15	36.87	36.81	37.06	46.41
March	$47.34	43.23	36.70	36.66	43.46	50.11
April	$46.28	44.20	36.57	37.31	37.50	47.72
May	$43.63	40.03	36.90	37.39	37.83	49.17
June	$41.33	41.62	36.99	37.42	47.61	49.81
July	$40.76	42.12	36.74	37.55	37.16	50.31
August	$43.67	41.89	37.23	37.07	37.68	49.34
September	$40.94	41.13	36.81	37.17	38.66	48.48
October	$43.63	40.21	36.93	37.17	43.73	48.73
November	$44.00	42.52	36.63	36.67	37.94	48.21
December	$42.17	41.29	36.86	37.03	38.51	46.78
	1468	505.36				442.46
	12	42.11				36.97

AVERAGE PRICES OF LOGS ALL GRADES

1949

	FIR	CEDAR	HEMLOCK	BALSAM	SPRUCE	WHITE PINE
January	$48.79	43.24	36.51	36.10	39.87	50.44
February	$43.29	35.38	35.21	35.80	38.07	49.30
March	$47.25	43.31	36.78	37.23	39.35	49.74
April	$48.16	42.15	36.13	35.81	49.11	48.59
May	$41.83	38.02	35.14	35.45	43.56	49.90
June	$46.18	39.89	34.99	35.13	43.58	49.39
July	$43.32	39.69	30.94	31.78	46.03	48.45
August	$41.63	32.60	29.56	28.91	42.85	55.15
September	$41.61	36.20	28.72	28.08	37.77	45.15
October	$40.29	34.22	28.47	27.98	35.96	46.19
November	$40.28	35.87	27.53	27.28	33.64	48.71
December	$45.11	43.22	29.03	28.46	46.37	48.45

AVERAGE PRICES OF LOGS ALL GRADES

1950

	FIR	CEDAR	HEMLOCK	BALSAM	SPRUCE	WHITE PINE
January	$49.16	43.08	29.28	29.46	33.71	46.49
February	$46.33	46.57	32.06	30.79	54.62	50.88
March	$46,59	42.83	31.89	31.38	34.83	50.88
April	$48.19	44.54	33.78	34.10	33.27	51.50
May	$44.87	43.79	34.09	33.64	43.76	53.16
June	$46.00	49.89	34.11	33.78	35.29	51.63
July	$47.16	56.80	37.11	35.87	36.06	51.69

P.O. Box 56,
Ganges, B.C.

September 13, 1950.

E. Kagetsu, Esq.,
8 Mountview Ave.,
Toronto 9, Ont.

Dear Sir:

Enclosed herewith please find copies of the average price of logs for the years 1948-9-50, as requested. From this information you will be able to obtain the average price for each year by species.

Will write you further regarding this matter on my return to Ganges.

Yours very truly,

Wm. Byers

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