Co-op COMMITTEE ON J-CAN

Foreword

IN a certain month within the last decade some 23,000 residents of a certain area of a certain country were uprooted from their homes. Many of them were given only a few hours' notice. They were allowed to take with them only a couple of suitcases — anything which they could not carry had to be left behind. The decree was issued for "security reasons", but, on the word of the prime minister, these people were "guilty of no crime, or even of any ill intention". An objective observer would probably assume that such a wholesale uprooting of innocent people could take place only in a totalitarian country. But this happened in Canada.

A century and a half ago John Philpot Curran gave us one of the axioms of democracy when he wrote: "The condition upon which God hath given liberty to man is eternal vigilance". Too often we think of democracy as something that exists, not as something that must be continually defended and recreated. The issues that threaten it differ with the age and the country, but there are always challenges that must be met if democracy is to be preserved. In nineteenth-century France the issue centered around a Jewish captain called Alfred Dreyfus. In the United States in the 1920's the issue centered around two Italian radicals: a shoemaker called Sacco and a fish-peddler called Vanzetti. In Canada, in the 1940's, the issue centered around some 23,000 persons of Japanese descent who happened to be living in this country when Pearl Harbor was attacked.

Race discrimination is, unfortunately, no new thing, and the Nazi theories of racism were not ended with Hitler. In the war against discrimination there are always many fronts, but in Canada during the war and postwar years the crucial front was the campaign to secure justice for the Japanese Canadians. This was no new problem. Long before the war, Canadian citizens of Japanese origin suffered under restrictions which did not prevail against citizens of other racial origins. When the war came the situation became so critical that it was no exaggeration to say that the acid test of our democracy was whether we were going to treat our Japanese Canadians as citizens or continue to discriminate against them solely because of their racial origin. Fortunately a group of Canadians who believed that democracy was more than a word determined to do something about it. This little pamphlet is the story of what they did.

Background

At the time of Pearl Harbor there were 24,000 persons of Japanese origin living in Canada, and 18,000 of these were Canadian citizens by birth or naturalization. The Japanese began to come to Canada around 1900, encouraged by industrialists and others who desired them as a source of cheap labor. As a result of protests against the importation of "contract labor", restrictions were imposed in 1908, and made more stringent in 1923. Then in 1928 the Canadian government made the so-called "Gentleman's Agreement' with the Japanese government. This limited Japanese immigration to 150 a year—an arrangement which continued until the outbreak of the war.

It is worth keeping in mind the fact that the Japanese who came to Canada from Japan entered this country legally. In 1938 the Keenleyside Committee, appointed to investigate charges of illegal entry, declared that such charges were "false both in detail and substance". It is also important to remember that 15,000 of the Japanese in Canada at the outbreak of the war were born in this country and had no other homeland.

The Japanese naturally settled around Vancouver. At the outbreak of the war only 850 of them lived outside of British Columbia. Thus, although they made up only one-half of one per cent of Canada's total population, they formed some 3 per cent of the population of British Columbia.

Because they usually came to Canada with very little capital, and because many professions were closed to them, the Japanese Canadians worked mainly at fishing, logging, farming, or unskilled manual labor. Later some established small businesses in which they usually proved very successful. As a group they were noted for thrift, cleanliness, and honesty, and they were conspicuously industrious and intelligent.

Unfortunately their very virtues were the cause of much of the antagonism against them. Their industry and intelligence caused the people of British Columbia to regard them as an economic threat. Because employers used them as a source of cheap labor, workers feared that their own

standard of living would be imperiled, and when they began to trade they incurred the hostility of the middle classes.

As a result of this antagonism, British Columbia denied the vote to citizens of Oriental origin (except those who fought in World War I), thus attaining the distinction of being the only part of North America to discriminate in this way. This restriction automatically barred Japanese Canadians from professions such as law and pharmacy, where eligibility to vote was a requirement. Also, they were not allowed to work in provincial or municipal services or on public works. It was because of these and social barriers that many Japanese parents sent their children to schools where the Japanese language was taught in the evenings, feeling that as they were not accepted in the Canadian society they must be fitted to mingle freely in the Japanese-Canadian group.

When the Japanese attacked Pearl Harbor the smoldering hostility in British Columbia burst into flame. Partly for "security" reasons, but mainly to protect the Japanese Canadians against violence from rabid B.C. "patriots", the Dominion government decided to evacuate all Japanese from the West Coast region. Most of the evacuees were herded into relocation centres set up in old "ghost towns" in the interior of B.C.: first at Greenwood, Slocan City, New Denver, Roseberry, Sandon, and Kaslo, and later at Lemon Creek and Tashme.

After the evacuation, all Japanese property, both real and personal, was sold, mostly at prices far below its actual value, although this property had been entrusted to a custodian on the condition that he was to exercise protective custody only.

In addition to the forced evacuation and sale of their property, a number of new restrictions were imposed upon Japanese Canadians which were not imposed upon Germans, Italians, or persons belonging to other so-called enemy groups. They were forbidden to buy or rent any property without the permission of the Minister of Justice and the Attorney General of the province involved. (Later this was amended to allow leases for less than one year.) Another

order-in-council prohibited all persons of Japanese race from crossing a provincial boundary without a special permit. At the outbreak of war many Japanese Canadians volunteered for service in the armed forces, but were refused solely because of their race. This policy of the Canadian government compared unfavorably with that of the United States where Japanese Americans were accepted into the army and won many awards for bravery. (It was not until 1945 that a few Nisei were admitted to the Canadian army.)

In 1942 and 1943 the government began to disperse the employable Japanese from the relocation centres in the B.C. interior. Placement offices were set up in Lethbridge, Winnipeg, Schreiber, Toronto, and Montreal, to co-operate with National Selective Service in placing Japanese Canadians in essential work.

Some 3,500 were directed to the prairies in family groups. Others left their homes on the West Coast for work in Ontario and Quebec. A number of young men were sent to sugar-beet camps, road camps, or bush camps, and a few businessmen and skilled workers to Ontario cities. Some women went to domestic and nursery service, and others found employment in steel plants, foundries, chemical works, and radio factories.

Beginnings

The small group out of which the Co-operative Committee on Japanese Canadians was to grow came into existence in June, 1943. It started in a very modest way, and certainly at that time nobody dreamed that in a very few years it would be challenging government policy and carrying its case to the highest court in the British Commonwealth.

The spark that started the committee was the fact that in the spring of 1943 a number of Japanese Canadians from the relocation centres began to arrive in Toronto to look for work. Because of existing prejudices, they soon ran into difficulties. The task of helping them with their resettlement problems fell on Mr. Ernest Trueman, placement

officer for the Japanese division of the federal Department of Labour. Mr. Trueman was sympathetic to the Japanese Canadians because he had worked for many years in Japan with the YMCA, and it occurred to him that some of his friends among the missionaries might be interested. At his suggestion a small group met to discuss how they could help Japanese-Canadian girls who were coming to Toronto. The group consisted originally of a few members of the YWCA and of the women's missionary societies of the United Church, the Church of England, and the Church of All Nations. The chairman was Miss Emma Kaufman, of the National Council of the YWCA, who had spent some years in Japan. Several other members of the committee had also served in Japanese missions, so their original interest in the plight of the Canadian Japanese was stimulated by the friendships they had formed while in Japan and by their understanding and respect for the Japanese people.

At its first meeting the group discussed the problem with Mrs. C. V. Booth of the B.C. Security Commission and Mrs. Brownell who was in charge of placing Japanese-Canadian girls in jobs through National Selective Service. Aided by their suggestions, the committee drew up a program to help the girls in finding suitable jobs, homes, and recreation.

A little later, representatives of the YMCA, the Student Christian Movement, the Fellowship for a Christian Social Order, the Catholic Diocese of Toronto, and the Metropolitan Church were added, and the program was extended to provide for the needs of Japanese-Canadian men as well as women. At the suggestion of the committee, the Japanese Canadians in Toronto formed two subcommittees of their own to help with problems as they occurred. Each of these subcommittees (one of men and one of women) sent two representatives to the meetings of the Co-operative Committee, and thus provided the necessary liaison. Thus from the very beginning the Co-operative Committee worked closely with the Japanese Canadians themselves, a form of co-operation which continued all through its history. (Later the two Japanese-Canadian subcommittees joined to form the Japanese Canadian Committee for Democracy,

and later still this organization developed into the Japanese Canadian Citizens' Association.)

During the fall and winter of 1943-44 the committee concentrated on providing housing, recreation, and jobs for the Japanese-Canadian relocees. It worked closely with the National Interchurch Advisory Committee on Japanese Re-Settlement, which was the official church body concerned with the same problems. Through the assistance of the YWCA, YMCA, churches, and other groups, a good number of Japanese Canadians were provided with houses or rooms. However, many had to live in crowded and sometimes unsuitable quarters. To meet the needs of some of these, the committee persuaded the Women's Missionary Society of the United Church to buy a house at 546 Jarvis Street and equip it as a hostel for young men. Providing accommodation for twenty young men, it was organized on co-operative principles and named the Nisei Co-operative Residence.

The committee stimulated various groups to draw the young Japanese Canadians into the social life of Toronto. The Y's opened clubs for boys and girls and young people, and helped them to join already organized groups. Miss Kaufman sponsored a number of Sunday teas at the School of Missions where young people of different churches met with young Japanese Canadians. Metropolitan Church, Carlton Street Church, and the Church of All Nations all co-operated in making the newcomers feel at home in a strange city.

During this year Miss Kaufman and Miss Florence Bird made visits to Hamilton, London, Chatham, Brantford, and St. Catharines to stimulate church and Y groups in those cities to help Japanese Canadians toward resettlement. Soon advisory councils were operating in Hamilton, London, and Brantford, and the pattern of Toronto's Co-operative Committee was spreading.

Although the Co-operative Committee was at first concerned with giving personal and direct assistance to Japanese Canadians, it soon became aware that the problem was too big to be handled on that basis alone. Shortly after the committee started, it learned that Tom Shoyama,

editor of the Japanese-Canadian weekly, *The New Canadian*, was coming to Toronto. The committee took advantage of his visit to invite some twenty representatives of various groups in the city to hear from him the facts about conditions in the relocation centres and the way the Japanese Canadians were being dispersed across Canada. At this meeting it was announced that the Consultative Council of Vancouver (a group headed by Dr. Norman Black which had been set up to deal with problems of citizenship aggravated by the war) had drawn up a petition urging the government to take some constructive action toward resettling the Japanese Canadians. This petition was being sent to other groups across the country for their support. The meeting agreed to promote a similar petition and appointed a committee to draft it and consider how it could be circulated throughout Ontario. The members of this committee, Rev. James Finlay, Mrs. Hugh MacMillan, and Miss Constance Chappell, found that to draw up the petition they had to study all the orders-in-council relating to the Japanese Canadians and all the statements of government policy. Also, when they came to consult other groups who had circulated petitions they learned that it would be difficult to obtain wide public support for any petition unless it was preceded by a program of public education. At that time most ordinary citizens knew nothing of what was happening to the Japanese Canadians. Accordingly, the subcommittee recommended to the Co-operative Committee that the idea of circulating a petition should be dropped for the moment, and an effort be made to inform the public about the plight of the Japanese Canadians.

While committee members were looking for material to use in this job of education, they came across an article in *Saturday Night* written by Dr. Norman Black, of Vancouver. This article had been condensed from a longer manuscript describing the background of the evacuation, conditions in the relocation centres, and the government's dispersal policy. The committee wrote Dr. Black for permission to print this manuscript in pamphlet form, and in the spring of 1944 it appeared under the title of "A Challenge to Patriotism and Statesmanship". During that

summer 10,000 copies were circulated widely throughout the country.

The committee also took up the question of fighting local opposition to the Japanese Canadians. Certain members of the Board of Control were opposed to letting Japanese Canadians settle in Toronto, and in the summer of 1944 the mayor threatened to exclude all further entries into the city, and the police commission refused to issue licenses to Japanese Canadians for any type of business. The Co-operative Committee sent a delegation to City Hall to support Jimmie Hirai's appeal for a license to run a restaurant on King Street. The Minister of Justice had already given him a permit to buy the restaurant, but eight successive times his appeal for the license was postponed for further study. When the decision was finally given he was denied the license because he was a Japanese, with the result that he sold his property at a loss. The Co-operative Committee's delegation was told that no licenses would be granted, but later this restriction was relaxed.

In the summer of 1944 the attention of the committee was drawn to the political aspects of the problem by Bill 135. This Bill provided amendments to the Dominion Elections Act in preparation for the forthcoming federal election. Tacked on to it was a clause (Section 5) which disqualified persons of Japanese race who moved from B.C. after December 7, 1941, from voting in the federal election unless they had served in the Canadian armed forces. This clause apparently escaped notice in the House of Commons until the bill had been passed, but by the time it reached the Senate widespread protests were being heard. The Japanese Canadian Committee for Democracy sent a brief opposing the Bill, and the National Interchurch Advisory Committee on the Resettlement of Japanese Canadians launched a vigorous campaign to get the clause removed. Because of this unexpected expression of public sentiment, the Senate sent the Bill back to the House, where it was amended to permit anyone who voted in the last federal election to vote in the next one. Even this amendment, however, disfranchised the majority of Japanese Canadians,

because at the time of the last election they were living in B.C. where they could not vote.

King's Statement

On August 5, 1944, Prime Minister King outlined the policy of his government toward the Japanese Canadians in a speech in the House of Commons. In brief, he indicated that no further immigration of Japanese would be permitted; that those found to be disloyal would be deported; and that the remainder of those in Canada would be dispersed across the country. He stated that a "quasi-judicial commission" would be established "to examine the background, loyalties, and attitudes of all persons of Japanese race in Canada and to ascertain those who are not fit persons to be allowed to remain here". To prevent those found to be loyal from concentrating once more in B.C. he suggested that they would "be given encouragement to move and remain elsewhere", and that a maximum would be set on the number allowed to return to the West Coast.

The Co-operative Committee welcomed the statement as a clear-cut policy, and expressed their willingness to co-operate in every way possible to aid in resettlement. They felt that until Canada had conquered her race prejudice it was probably better not to admit any more Japanese, and that dispersing those already here more or less evenly across Canada would help to reduce prejudice. However, the committee felt that it was unjust and unnecessary to subject all Japanese Canadians to investigation by a commission when, in the same speech, the Prime Minister himself had said: "It is a fact that no person of Japanese race born in Canada has been charged with any act of sabotage or disloyalty during the years of war." That statement they were to quote many times in their future efforts to inform the public and convince the government of the justice of their case. Despite the government statement, during the following months little was done to implement it. Very few people moved out of the relocation centres during the fall and winter of 1944-45. The Co-operative Committee was convinced that the restrictions preventing them from renting and buying property and securing business

licenses were the main reasons why the Japanese Canadians hesitated to leave the centres.

The "Repatriation" Survey

Early in 1945 the government decided to speed up the movement from the relocation centres. However, instead of following the suggestion of the Co-operative Committee and removing the restrictions, they took a step which was to have far-reaching repercussions. In February they announced a "voluntary repatriation" plan under which all persons of Japanese ancestry were offered the choice of making "voluntary application to go to Japan after the war or sooner where this can be arranged", or reestablishing themselves east of the Rockies.

Notices were posted in all relocation centres, offering government aid to all those who wished to go to Japan. A short time later members of the RCMP visited every relocation centre. All persons over sixteen were asked to appear individually before the RCMP officers and state their intention of either going to Japan or remaining in Canada. If they were willing to go to Japan they signed a form requesting repatriation and accepting the government's offer of free transportation and other financial aid. Those who did not sign were approached by Selective Service officials to take jobs east of the Rockies. It was officially announced that "failure to accept employment east of the Rockies may be regarded at a later date as lack of co-operation with the Canadian government in carrying out its policy of dispersal".

The survey was completed early in May. Some 6,000 forms were signed, involving 10,347 persons, most of whom were Canadian citizens. When the Co-operative Committee learned of the "repatriation" survey, they were greatly alarmed. They recognized the threat to civil liberties involved in the proposed deportation of Canadian citizens, and decided that immediate action was necessary. Up to that time the committee had been fairly small, and its work had been carried on by busy people who were occupied with many other activities. Now it became obvious that an intensive campaign to arouse public opinion would have to be launched.

At this point Mrs. Hugh MacMillan offered her services to the committee as secretary. Donalda MacMillan had spent

many years in Japan with her missionary husband, and was deeply concerned about the injustices being suffered by the Japanese Canadians. From the beginning she had been active in the committee, and throughout the crucial period ahead she was to prove herself invaluable. Without her inexhaustible energy and singleness of purpose it is doubtful whether the Co-operative Committee could ever have carried out the difficult program upon which it was embarking. It was fortunate, not only for the Japanese Canadians, but for all Canadians, that Mrs. MacMillan was at that time in Toronto and able to devote herself to extending the work of the committee.

To cope with the proposed deportation, the Co-operative Committee decided that it must extend its scope. Accordingly it called a special meeting for May 22, and invited twenty different organizations to send representatives. Sixty people attended the meeting, where they learned the facts about the "repatriation" survey. A resolution was drawn up protesting the survey on the ground that the Japanese had been given the alternative of deportation to a land most of them had never seen, or settlement in a strange or hostile neighborhood, on pain of being judged disloyal. Instead, the resolution urged that all restrictions hindering resettlement should be withdrawn. Each person at the meeting was asked to present the resolution to his own organization, and to report back to a meeting on June 19.

At the meeting of June 19, the enlarged organization became official. It was decided that henceforth the Co-operative Committee on Japanese Canadians should be a federation of all the organizations interested in securing justice for the Japanese Canadians, and that an executive should be appointed to direct activities and coordinate the various groups. At this point Rev. James Finlay of Carlton Street United Church became chairman—a position which he was to retain over the next six years. Mr. Finlay was one of the first clergymen to take up the cause of the Japanese Canadians, and had been active on the committee from the beginning. In the months and years ahead his clear judgment and unfailing energy and good humor were to prove a constant inspiration to his colleagues.

At the June meeting, too, it was decided to send a delegation to Ottawa to protest against the repatriation plan and the enforced restrictions. Those chosen for this delegation included B. K. Sandwell of *Saturday Night*, J. H. Fowler of the National YMCA, Donald Franco, a university student, Kinzie Tanaka of the JCCD, and Mrs. MacMillan.

In July, the delegation (which was joined in Ottawa by Eugene Forsey of the Canadian Congress of Labour and George Reany of the Hamilton branch of the committee) saw Humphrey Mitchel, Minister of Labour, Norman Robertson, Undersecretary of State for External Affairs, and Arthur Brown, Solicitor for the Labour Department. The government's dispersal policy and the proposed deportations were thoroughly discussed, but all members of the government stoutly defended their policy and gave no indication that they would modify it. In fact, the government spokesmen said that up to that time they were not aware of any opposition to their policy.

As a result of these interviews, the delegation reported back to the Co-operative Committee that it would have to awaken the public to the seriousness of the situation before it could hope to move the government. It was the middle of the summer—a bad time to get anybody interested in anything besides holiday plans, but several things were done. Various committee members visited other organizations to give them the facts; several releases were sent to the press; and copies of a pamphlet, "What about the Japanese Canadians?" by Howard Norman of British Columbia, were sent to co-operating groups across the country.

Threat of Deportation

In September, 1945, it was announced that plans were under way to transport the first of the 10,000 people to Japan. The Canadian government had asked General MacArthur (then Allied Commander in Japan) when he would be prepared to receive these "repatriates", and had been advised "that he is prepared to accept them whenever shipping arrangements can be completed for the transportation of these people to Japan". At this time, too, the government introduced Bill 15 (National

Emergency Powers Act of 1945), which contained a clause giving the Governor-General-in-Council power over "entry into Canada, exclusion and deportation and revocation of nationality".

Immediately the executive of the Co-operative Committee called an enlarged meeting to discuss how to stop the deportation. It was decided to send a letter to all members of parliament calling their attention to the danger of granting the government such arbitrary power over the lives of citizens, and asking them to press for the deletion of Clause G. (As a result of opposition, the bill was finally sent back to committee and later introduced with Clause G deleted.) This meeting also decided to print a leaflet giving the facts as concisely as possible.

A small committee was appointed to draft the leaflet, and by the end of the month 50,000 copies were ready. Called "From Citizens to Refugees—It's Happening Here!" it set forth the issues briefly and dramatically. One page, headed "We Believe . . .", gave democratic principles from the Declaration of Independence, the United Nations Charter, and the Atlantic Charter, concluding with the statement, "It is of vital importance to Canadian democracy at home and our reputation abroad that we deal justly with the Japanese Canadians in our land who, in the words of Prime Minister King, 'have been guilty of no act of sabotage and have manifested no disloyalty even during periods of utmost trial'." On the opposite page, under the heading "Do We???" the facts were set forth, with the charge that "The Government has singled out its Japanese-Canadian citizens for discriminatory treatment simply because of their racial origin. No similar action has been contemplated toward other citizens of enemy origin such as those of German or Italian descent". Declaring that "The Time to Act Is Now!" it urged organizations and individuals to write or wire the Prime Minister and their federal representatives, and to make the facts known as widely as possible.

As the work of public education gained momentum, the committee decided that it needed a full-time executive secretary. So far Mrs. MacMillan had been giving a great deal of time on a voluntary basis, but it was felt that a salary should

be paid for the rapidly-increasing volume of work. As Rev. Hugh MacMillan was returning to Canada early in 1946, it was arranged that he should become secretary when he arrived, and that in the meantime Mrs. MacMillan should carry on. In effect, the committee secured two secretaries for the price of one, for throughout the crucial months ahead both the MacMillans devoted their full time to the work.

During October and November the committee's activities began to bear fruit. Regional committees were working in Vancouver, Calgary, Edmonton, Lethbridge, Regina, Saskatoon, Winnipeg, London, Guelph, Brantford, Hamilton, Ottawa, and Montreal. Public meetings were held in many towns and cities. Newspaper editorials gave the committee's program strong support. The Students' Christian Movement brought the matter to the attention of the students on every Canadian university campus. When Professor LaViolette of McGill wrote a pamphlet called "The Japanese Canadians" for the Canadian Institute of International Affairs, several thousand copies were distributed by the committee and co-operating organizations. There was such a demand for the leaflet, "From Citizens to Refugees", that an additional 25,000 had to be printed. With the co-operation of the Japanese Canadian Committee for Democracy, the Co-operative Committee began to collect sworn statements from the Japanese Canadians who had signed the repatriation forms, showing the reasons why they had signed. An avalanche of letters flowed into the offices of the Prime Minister, cabinet ministers, and members of parliament, protesting the deportation and asking for the removal of restrictions on the Japanese Canadians.

On November 21 the government clarified its position. Hon. Humphrey Mitchell, Minister of Labour, made a statement in the House of Commons in which he announced: "There is a total of 10,347 involved in the voluntary requests made for repatriation. Of this number 6,844 actually signed requests—the remainder are dependent children under sixteen years of age of those who signed. Those signing included 2,925 Japanese nationals, 1,451 naturalized Canadians, and 2,460 Canadian born." (Thus one-third of those facing deportation were children born in Canada, and three-quarters of them were Canadian citizens.) Mr. Mitchell then set forth the attitude

of the government to those who had applied to revoke their repatriation requests:

> "(1) The government is of the opinion that, in general, all Japanese nationals who have requested repatriation should be repatriated because it is quite clear that their loyalty is to Japan rather than to Canada.
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> "(2) On the other hand the government is of the opinion that where any Canadian citizen of the Japanese race who applied for repatriation has subsequently submitted in writing prior to the Japanese surrender on September 2, 1945, an application to cancel his repatriation request, such cancellation should be permitted.
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> "(3) It is also proposed to review those cases of Canadian-born persons of the Japanese race who may have applied subsequently to the Japanese surrender to revoke their request to be sent to Japan."

The Co-operative Committee welcomed the statement of the government that Canadian-born Japanese were to have their cases reviewed. That was something gained, but the provisions regarding naturalized citizens and Japanese nationals were quite unsatisfactory. The committee felt deepest concern over the provision that all Japanese nationals who had asked to be allowed to cancel their requests and remain in Canada were to be shipped to Japan against their will. Naturalized Canadian citizens were to be allowed to remain only if their applications were received before September 2. The committee raised the question of why the date of September 2 was chosen to divide the sheep from the goats. When the applications were signed in the spring, it was quite apparent then that Japan's defeat was only a matter of months, and all but the formalities were over on August 6. No warning was given that those who did not get their applications in before the formal capitulation of Japan would be denied. There appeared to be little logical reason for the ruling that those who applied on September 1 were loyal Canadians while those who applied on September 3 were disloyal. The committee felt that the key lay in Mr. Mitchel's revelation that up to that date "only a very insignificant number had applied to revoke their requests", while since that date applications "have reached us in considerable numbers".

Mr. Mitchell made quite a point of emphasizing that "no coercion was exercised in the taking of requests for repatriation from persons of the Japanese race". Members of the

Co-operative Committee pointed out that if by coercion you mean putting a pistol to a man's head or compelling action by threat of physical violence, then no coercion was used. But if by coercion you mean threatening individuals with the loss of their livelihood, with imminent separation from their families, and with the danger of being considered disloyal, then coercion was used. They claimed that by whatever name it was called, the type of persuasion used was unworthy of a society that claimed to be democratic, and in support of their charges they quoted from sworn statements collected from the Japanese Canadians. The following two are typical of dozens in their files:

- "I was willing to go east but my wife is confined in the New Denver Sanitarium, and at that time I was told to go east and work on a farm. I have three small children with no one to look after them. I refused to sign at first, but the placement officer threatened to cut me off the Department of Labour, Japanese Division, payroll, and also refused to give me maintenance. With no other alternative, I had to sign for repatriation."

- "My father was injured on December 2, 1944, and although he has been a resident of Canada for forty years and till then had never considered returning to Japan, since he was unable to move around he had no alternative but to sign. My mother was also unwell before the birth of my baby sister three months later. I being the oldest and sole supporter of the family had to remain to look after them. The constable told us that if we wished to cancel our application we could write in to the commanding officer of the RCMP in Vancouver. Because of this I believed that as soon as my parents were well again I could cancel my application and go east."

So much for the "voluntary" nature of the "repatriation requests". The committee pointed out that such letters were proof enough that the signing of the applications formed no basis whatsoever for judging the loyalty or disloyalty of persons of Japanese origin. The survey did not indicate how many persons wished to go to Japan. It merely indicated how many persons found it impossible or extremely difficult to move east of the Rockies under the uncertain and restrictive conditions that faced them. Furthermore, as the second letter indicates, many did not regard the signing as a final and binding decision. They had been led to believe that at a later date they could cancel their applications if they so desired. In fact, a petition from

the Tashme Japanese-Canadian Citizens' Association stated that they had not signed "with any desire or intention of renouncing Canadian citizenship and assuming the status of citizens of Japan", and that "had the choice been put to us in this way and the hope of cancellation been clearly absent, we would never have signed such declarations".

The committee felt that the most deplorable part of the government's program was its determination to deport all the Japanese nationals who signed the applications even if they had later asked to cancel their requests. These Japanese nationals had entered Canada legally, and many of them had lived here for forty years or longer. Some who came to Canada as children had been unable to become citizens because of the red tape surrounding naturalization. In a petition to the Prime Minister, the children of these nationals who signed repatriation forms "not because of any desire to go back to Japan but because of their failure to understand the manner in which they have been treated and the insecurity and fear which they have suffered," pleaded the cause of their parents eloquently:

> "Whereas our parents as a group have shown characteristics common to immigrant groups of other races: clannishness, lack of facility in the use of the English language, failure to appreciate the customs and habits of the Canadian people, and an anxiety to succeed in an economic sense, yet they have also sought consistently and continuously to have their children well educated after Canadian standards; they have appreciated highly the democratic way of life, and have urged upon their children the full assumption of the obligations of citizenship . . .
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> "And whereas we their children, being as we are their main hope of support for the future, and feeling strongly the natural ties of blood and affection, are faced with separation from them or exile from our native land, do hereby earnestly plead with you, the Prime Minister of Canada and the people of Canada, that these parents be permitted to remain with us if they so desire, that we all may become useful citizens and residents of this our country."

Despite the many protests and the evidence of the statements collected, the government proceeded with its plans. Early in December it announced that the first 900 were to be sent to Japan in January—although conditions in Japan were so bad that Kagawa had estimated that 12,000,000 persons would die of starvation that winter. On December

17, near the end of the session, the Prime Minister tabled three orders-in-council (P.C. 7355, 7356, and 7357) providing for the deportation of five different classes of people: Japanese nationals who signed requests for repatriation; naturalized persons of the Japanese race who signed requests for repatriation and did not revoke them before September 1, 1945; Canadian-born citizens of the Japanese race who did not revoke the request before the making of orders for deportation; wives and children under sixteen of any to be deported under the above classes; and Japanese nationals or naturalized persons of the Japanese race recommended to be deported by the loyalty commission after investigation into their activities, loyalty, and extent of co-operation with the government. The orders were passed under the War Measures Act, which was to expire on January 1, 1946. After that date they were continued in force by P.C. 8418 under the National Transitional Emergency Powers Act.

The orders-in-council provoked strong opposition across the country. The situation was serious, because the first boat was scheduled to leave Vancouver on January 6. Those listed for the first load had been notified to have the required inoculations and to be ready to proceed to the coast for return to Japan. Letters flowed into the Co-operative Committee expressing the anxiety and fear of hundreds of young Japanese-Canadian men and women over the impending break-up of their families.

Legal Action

Despite the pressure of Christmas preparations, the Co-operative Committee called an emergency meeting on December 21. At this meeting Andrew Brewin, a Toronto lawyer who had been representing the Civil Liberties Association on the Co-operative Committee, advised the committee to take legal action to halt the deportation. He said that a writ could be issued against the Attorney General of Canada to test the legality of the orders-in-council. Realizing the urgency of the situation, the meeting unanimously agreed to this step, and appointed a small

committee to initiate the test case. Mr. Brewin was asked to serve as legal counsel for the Co-operative Committee.

Faced with the necessity of stopping the boat that was scheduled to sail on January 6, the members of the special committee met on Christmas Eve at the home of B. K. Sandwell to complete plans for issuing the writs. Then on December 27 the Co-operative Committee issued writs at Osgoode Hall against the Attorney General in the name of Yutaka Shimoyama and Mrs. Yae Nasu, a Canadian-born Japanese and a naturalized Japanese Canadian, claiming that Orders-in-Council P.C. 7355-7, which authorized their deportation, were "invalid, illegal, and beyond the powers of governor-in-council".

The Co-operative Committee then sought an interview with the Minister of Justice to ask that the case be referred to the Supreme Court. On January 4, 1946, a delegation consisting of B. K. Sandwell, George Tatham, Andrew Brewin, and Mrs. MacMillan saw the Acting Minister of Justice and the Deputy Minister of Justice in Ottawa. Mrs. MacMillan told them of the many organizations that had registered their protest against the orders-in-council, while Mr. Sandwell and Professor Tatham set forth the threat to civil liberties contained in the orders, and Mr. Brewin outlined the reasons for questioning their legality. As a result of this meeting, the cabinet decided to refer the orders to the Supreme Court to test their legality. In the meantime, they postponed enforcement of the deportation orders, and only those who were still willing to go to Japan were sent.

The Co-operative Committee was now faced with the necessity of arguing its case before the Supreme Court: a heavy responsibility for the small executive representing a loosely-knit group of organizations. However, there was no hesitation. It was decided that the case must go forward, and the necessary money must be raised. Up to that time the committee had been operating on a shoestring. The small amounts of money needed had been provided by the committee members themselves and small donations from the co-operating organizations. Now it was decided

that at least $7,000 would be needed to carry on the work of the committee and pay for the Supreme Court appeal. The Civil Liberties Association pledged itself to meet the immediate need by voluntary contributions and loans from its members. A thousand copies of a special bulletin were sent to organizations across the country, and donations soon came pouring in. Within a month $10,000 was subscribed. Committees of the SCM on all university campuses across the country raised money and stimulated interest in their local communities. The churches contributed large sums, and the JCCD appointed a special committee to raise funds from the Japanese Canadians across Canada.

Meanwhile many meetings were being held. On January 10 nearly a thousand people attended a public meeting in Jarvis Collegiate, Toronto. After hearing addresses by Senator Cairine Wilson, Senator Arthur Roebuck, Rabbi A. Feinberg, and Andrew Brewin, the meeting passed the following resolution:

> "Whereas the actions of the Dominion Government since December, 1941, with respect to persons of Japanese origin in Canada have, in our judgment, violated the fundamentals of democracy, and whereas the proposed expulsion of several thousand of these persons is a particularly flagrant denial of justice and the basic rights of citizens, we therefore petition the Prime Minister and the Cabinet to abandon their plans for the deportation or expulsion of persons of Japanese origin."

Similar resolutions were being passed at meetings in London, Brantford, Ottawa, Montreal, Vancouver, and Winnipeg. Meanwhile Hugh MacMillan, who had just completed his term of service with a British government mission in San Francisco, began a cross-country tour from Vancouver on January 8, contacting all the groups already organized and organizing new ones.

The argument before the Supreme Court was heard on January 24 and 25. Andrew Brewin and J. R. Cartright, an outstanding constitutional authority, acted for the Co-operative Committee. The Province of B.C. supported the Attorney-General against the appeal, while the Province of Saskatchewan supported the Co-operative Committee.

In the weeks intervening before the court's decision was handed down the executive considered what steps should be taken if the decision was unfavorable. All the committees across the country were consulted, and they were all agreed that if the judgment was not satisfactory the case should be appealed to the Privy Council.

On February 20 the Supreme Court's decision was announced. A majority of the judges held that the orders-in-council were partially valid. However, as the Co-operative Committee immediately pointed out, the ground upon which they were upheld did little to enhance the government's position. The orders were ruled legal simply because the government had the power to do practically anything under the War Measures Act—and the government had rushed them through several months after the war was over, and only a few days before the War Measures Act expired. Moreover, the judgment was far from as sweeping a victory for the government as the newspaper headlines indicated. A majority of the judges ruled that it was illegal to deport the wives and children of the men being deported. Two of the judges further held that other parts of the scheme were invalid insofar as they applied to Canadian-born and naturalized citizens.

The Privy Council Appeal

In a statement issued immediately after the decision was announced, the Co-operative Committee said:

> "What is left of these orders as legally valid cannot be carried out without separating families, depriving wives of their husbands and children of their fathers, thus making in effect widows and orphans of Canadian citizens. The government of Canada will surely not persist in such a policy of inhumanity, especially as their constitutional power is made to appear so doubtful by the dissenting judgments in the Supreme Court. . . . The issue involved is of such crucial importance to the liberties of Canadians generally and especially to minority groups, and the result of the opinions of the Justices of the Supreme Court is so confusing, that the groups of citizens who have formed the Co-operative Committee on Japanese Canadians in all parts of

Canada have been determined that the case should be taken to the final court of appeal for the British Commonwealth, namely the Privy Council in London."

Once more the committee buckled down to work. It had to raise $10,500 for the Privy Council case, and the response to this second appeal indicated that the country was now alive to the issues involved. Meetings, large and small, continued to be held across the country, and telegrams and letters continued to pour into Ottawa. The committee recognized that the Privy Council would be concerned merely with the legal points involved, and used the interval of time allowed to try to persuade the government of the moral injustice of its orders-in-council. A delegation went to Ottawa to see the Prime Minister and several members of the cabinet. (The delegation, which was led by Hugh MacMillan, included E. J. Tarr, K.C., of Winnipeg; Col. Croll, M.P., Toronto; M. J. Coldwell, leader of the CCF, and Charles Millard, Director of the United Steelworkers.) The government's handling of the Japanese-Canadian problem was discussed in a frank and friendly manner, and the Prime Minister promised to give serious consideration to the representations.

The committee also began a program designed to make the public realize that as long as the orders-in-council were on the statute books they threatened the honor of the nation. A brief was sent to all members of the House of Commons and the Senate pointing out that parliament must assume its full responsibility for deciding whether Canadian citizens were to be exiled. The brief made the point that the power of exile had not been employed by civilized countries since the days of the Stuarts, and that the orders were in direct contradiction to the United Nations Charter to which Canada had subscribed.

The committee also prepared a new leaflet called "Our Japanese Canadians—Citizens, not Exiles", which set forth the case in brief but telling form. It gave a point-by-point record of the discrimination against the Japanese Canadians from 1941 to 1945, coupled with quotations from various sources protesting the deportation. It listed ten reasons

why the orders-in-council must be rescinded, and urged every interested citizen to write or wire the Prime Minister to abandon the orders and to introduce a constructive program for rehabilitating the Japanese Canadians. Some fifty thousand copies of this leaflet were distributed throughout the country.

The Privy Council hearing occupied four days in mid-July. Andrew Brewin presented the case for the committee, with the assistance of two British lawyers: Christopher Shawcross, M.P., brother of the British Attorney-General, and Geoffrey Wilson, recently associated with Sir Stafford Cripps. In concluding the hearings Lord Simon stated that "This was one of the most important cases that has ever come before us."

The Privy Council decision was handed down on December 2. Its ruling was that the orders-in-council were valid because under the War Emergency Powers Act the government could legally do anything it considered necessary for the safety of the Dominion. The decision included this significant comment:

"It is not pertinent to the judiciary to consider the wisdom or propriety of the particular policy which is embodied in the emergency legislation. Determination of the policy to be followed is exclusively a matter for the Parliament of the Dominion and those to whom it has delivered its powers."

The Co-operative Committee immediately pointed out that this ruling meant that the Canadian government had the power to do anything it saw fit, regardless of the right or justice of such actions, and that the decision had, in effect, thrown the case back to the people of Canada. The decision merely underlined the fact that a nation can never depend upon laws or constitutions to defend its rights: eternal vigilance is always the price of liberty.

The committee called upon the government to abandon its policy of forcible deportation, pointing out that the situation had changed since the orders-in-council were passed. The war emergency upon which they were supposed to be based no longer existed, and the Japanese Canadians were no longer concentrated in one part of Canada. A delegation asked for

an interview with the Prime Minister, but the interview was delayed. However, the committee was assured that its views were known and were being considered by the cabinet.

Then on January 24, 1947, Prime Minister King announced that the orders-in-council providing for the deportation of the Japanese Canadians had been repealed. The statement issued by the Co-operative Committee following this announcement said:

> "The repeal of these orders-in-council is a signal triumph for the forces of decency and justice which fought against the government's policy of forcible removal from Canada of thousands of innocent people. . . . We are glad to be able to give credit to the government for changing its mind and rescinding the orders. Thus a course of action that would have been a lasting cause for shame to Canada has been abandoned, and it has been abandoned because the sound judgment and the sense of decency of the people of Canada would not stand for it."

The committee was delighted that its long campaign had at last been successful, but it was still not satisfied. While the ultimate disgrace of compelling Canadians to leave their homeland by force could not be charged against us, some 3,700 persons of Japanese origin (about half of them Canadian-born) had already been sent to Japan in accordance with their own wishes. As the committee pointed out, the fact that these persons should have chosen to go to starving devastated Japan rather than to remain in Canada was a severe indictment of the treatment they received here. To those who imputed disloyalty to these persons, the committee asked: "Can we blame them if, after being treated as enemies and herded into camps simply because of their racial origin, after seeing the work of years destroyed overnight through no fault of their own, they felt unable to start over again, in the face of continuing hostility and unreasoning prejudice?" It was then too late to make restitution to those four thousand who, in despair, had given up the struggle to obtain justice in Canada. The committee demanded, however, that those Canadian-born sons and daughters who felt obliged to accompany their parents to Japan should retain their Canadian citizenship and be free to return to the land of their birth whenever they chose to do so. The committee also announced that it would continue to press for removal of the remaining restrictions governing Japanese Canadians, saying: "Until Japanese Canadians enjoy

the same rights and privileges as their fellow citizens of other races, the job is not complete."

The Property Issue

With the deportation orders rescinded, the Co-operative Committee then turned its attention to the chief remaining issue: that of property losses resulting from the forced evacuation of the West Coast. After the hasty evacuation the property left behind was vested in a Custodian of Alien Property "for protective purposes only". There were many instances where fishing gear was stolen from boats, houses were broken into and robbed, and personal effects were rifled and destroyed. Then, some months later, the Custodian was given power to "liquidate, sell, or otherwise dispose of" the properties of the evacuated persons. All such property was disposed of without the consent of the owners.

From the sworn affidavits in its files, the committee knew that in most cases the sums received from the sale of property were far below the market value. However, on January 24, 1947, the Prime Minister stated:

> "With respect to the property of persons of Japanese origin who were removed from the Pacific coast, and whose property was sold by the Custodian, the government is of the opinion that the sales were made at a fair price. In all cases a complete appraisal was made before disposition. The total of the prices secured is greater in aggregate than the total appraisal value. To ensure, however, the fair treatment promised in 1944, the government is prepared in cases where it can be shown that a sale was made at less than a fair market value to remedy the injustice."

This indicates clearly that the government at that time had no intention of investigating the whole question of property claims. It refused to recognize that any wide scale injustice had been done, and was prepared only to make minor adjustments in some special cases. However, the Co-operative Committee believed that nothing less than a complete investigation of the whole subject would remedy the injustice. It had records of hundreds of cases in which grave injustices were done. Two cases may be given as examples:

- Sergeant Buck Suzuki was born in Canada, and his parents lived here for over thirty years. He, together with another Japanese-Canadian, gave the surrender order to the Japanese forces in South-East Asia. When he returned from Burma he

found that his house, lot, and furniture, valued at $7,000, had been sold by the Custodian for $1,963, and that his wife and child had been forcibly moved to Ontario.

- Uazusu Shoji, who was twice wounded while fighting with the Princess Pats in World War I, had purchased nineteen acres of land under the Soldiers' Settlement Act and established a chicken farm. His nineteen acres, a two-storied house, four chicken houses, an electric incubator, and 2,500 fowls were sold for $1,492.59. After certain deductions for taxes and sundries were made, Mr. Shoji received a cheque for $39.32.

These two cases were particularly dramatic because of the contrast between the men's service records and the treatment they received. However, there were literally hundreds of other cases where equally serious losses were suffered.

The Co-operative Committee pointed out that Canada could never repay these people for the loss of property which had taken a lifetime to build up and which was dear to them for sentimental reasons, quite apart from its material value. However, they insisted that some amends must be made, and called upon the government to establish a claims commission "to restore property where possible, to order restitution for losses where property cannot be restored, and to grant compensation for net loss in income as a result of evacuation". They pointed out that in the United States, where property losses were by no means as extensive as in Canada, steps had been taken to set up an Evacuation Claims Commission.

When the Co-operative Committee wrote to the Prime Minister asking what machinery would be set up to handle claims, he replied that the Secretary of State was responsible for dealing with the property losses, and suggested that they submit any information they had to Colonel Gibson. Feeling that there was more chance of getting something done if they had a concrete plan, the committee decided to submit a draft of a proposed commission to handle the property losses. They asked three lawyers, A. B. Mortimer, J. B. Allen, and Alfred Best, to act with Mr. Brewin as a legal committee. This committee undertook to draft terms for a commission, based partly on the American bill to compensate Japanese Americans for losses sustained during the war.

Meanwhile the Japanese Canadian Committee for Democracy, in co-operation with the Co-operative Committee, had

begun a survey to gather detailed information about the extent of property losses. Forms had been printed and sent out to all Japanese-Canadian organizations across the country. The survey in Toronto was completed early in 1947, and two hundred forms were turned in, showing a total loss of one and a half million dollars.

On March 2, 1947, Mr. Brewin secured an interview with Hon. Colin Gibson, Secretary of State. He presented a summary of the economic loss survey and the draft of the proposed commission. The Secretary accepted the draft but did not commit himself in any way. A month passed without further news.

Meanwhile, in April during the House of Commons debate on Bill 22 (To Continue the Regulations Respecting Trading with the Enemy, 1943), questions were raised about the disposal of Japanese-Canadian property. As a result of these questions, the subject was referred to the Public Accounts Committee of the House of Commons for investigation. The Co-operative Committee sent a delegation, composed of Andrew Brewin, George Tanaka, and Mrs. MacMillan, to appear before the Public Accounts Committee. They gave a full picture of the property losses suffered, and stressed the need for a commission with broad enough powers to deal with all losses arising out of the evacuation.

When the Public Accounts Committee made its report to Parliament on June 17, it included a recommendation that:

> "a commission be appointed under the provisions of the Inquiries Act to inquire into and report upon the claim of any person of the Japanese race now resident in Canada for alleged loss which resulted from the amount received by him being less than the fair market value of his property at time of sale or loss."

When no action was taken by the end of June, the committee asked Angus McInnis, M.P., to raise the question in the House. (Mr. McInnis had been an active defender of Japanese Canadian rights from the beginning, and had worked closely with the committee on many points.)

On July 18 the commission was finally set up by Order-in-Council P.C. 1810. Mr. Justice Henry Irvine Bird, of British Columbia, was appointed as a commissioner under the Public Inquiries Act, and instructed to:

"examine into each claim and make a report to the Governor-in-Council setting forth claims, if any, which in the opinion of the Commissioner are well-founded, and the amount which, in his opinion, would fairly and reasonably compensate the claimant for failure of the custodian to exercise reasonable care."

After studying the order-in-council, the Co-operative Committee issued a statement saying that the terms of reference were so restricted as to be practically useless. It pointed out that claimants would have to prove that the custodian had been negligent before they could get any compensation, and suggested that if the terms were not broadened it might have to advise the Japanese Canadians to have nothing to do with the Commission. It asked for an interview at the earliest possible date, and when the interview took place on August 26, Mr. Brewin again pressed for the widening of the terms, pointing out that the order-in-council did not fulfill the promise given by the Prime Minister on January 24, nor did it meet the recommendation of the Public Accounts Committee. The government then changed the terms of reference to provide that compensation would be paid if it could be proved that property was sold by the custodian at less than a fair market value. This was a considerable improvement, because it would not be necessary to prove the custodian at fault. The terms were still not satisfactory, because they did not cover losses suffered before the custodian took over, but the committee felt that they offered a real opportunity to prove substantial losses.

With the setting up of the property commission, the work of the Co-operative Committee entered a new phase. It was felt that the major purposes for which the committee had been organized had been achieved, and that the time had come to make some change in the set-up. Plans for this change had been laid in May, 1947, before the departure of Mrs. MacMillan for the Orient. It was decided that most of the work on the claims would be handled by the legal committee, and that the large executive would be replaced by a smaller committee which would direct the work of the legal committee. Mr. Finlay agreed to continue as chairman, Miss Margaret Boos became secretary, and the other members of the committee were: E. M. Nichols, Fred

Haslam, Hartley Fowler, Kinzie and George Tanaka, Grace Tucker, Ab Watson, and Roger Obata. In September, after the government announced the broadened terms of reference, this new set-up came into effect.

The Property Commission

The task of the Commission was to determine the fair market value of the Japanese-Canadian property at the time it was sold. With thousands of claimants scattered all across Canada, the problem of presenting the evidence was very difficult. As Mr. Brewin said:

"The Commission is unique in the history of Canadian jurisprudence. There have of course been many cases in which claims have been made against governments for property expropriated for public purposes. There have been inquiries into the values of very extensive properties by judicial commissions . . . Never before, however, has it been necessary to inquire into the value of many different sorts of properties lost to a large group of Canadian residents scattered over the whole of Canada."

The Co-operative Committee, working with the Japanese-Canadian Citizens' Association, arranged for legal representatives to handle the claims co-operatively. This made it possible to pool resources and gather evidence more efficiently. As the task was so enormous, it was obvious that a great deal of money was going to be needed. The question of raising this large amount was discussed, and a simple but very effective plan worked out. It was agreed that all claimants should be asked to pay one per cent of the value of their claims into the pool to cover legal expenses. (At a later stage it was found necessary to ask for an additional one per cent.) This plan worked very well, and a total of some fifty thousand dollars was collected. However, it should be noted that at the time when Mr. Brewin and his fellow lawyers undertook the case, there was no assurance that their bills would be met in full. Their interest in the case was never purely financial, and if they had not been willing to undertake the initial work without waiting for iron-clad contracts, the issue would never have been settled as satisfactorily as it was.

Because the claimants were so dispersed, it was necessary to hold hearings in many centres across Canada, and the Co-operative Committee, acting through Mr. Brewin, arranged

for counsel to represent the claimants in every province. These included R. J. McMaster and J. A. MacLennan in British Columbia, L. S. Turcotte and W. E. Huckvale in Alberta, Morris Shumiatcher, George Tamaki, and P. G. Makaroff in Saskatchewan, S. M. Cherniack in Manitoba, R. A. Best in Ontario, and Roger Ouimet in Quebec. The large majority of claimants chose to be represented through the Co-operative Committee, except in southern Alberta where Mr. A. Gladstone Virtue, K.C., represented about two hundred claimants.

The legal committee worked out a Loss Claims form which was printed and distributed to all claimants. Some thirteen hundred claims, amounting to over four million dollars, were prepared for filing with the aid of JCCA officers across the country. Valuation experts were engaged to deal with each different type of property, and evidence compiled on comparative sales, and the relation of the sale price to assessment values. This work was done under the supervision of R. J. McMaster of Vancouver, who gave many weeks to the project.

Most of the claims were completed by January, 1948. Throughout most of that year and the first few months of 1949 the commissioner held hearings in various centres across Canada. In the spring of 1949, after the general evidence had been presented, it became evident that the proceedings would be greatly prolonged if the commissioner were to hear evidence of valuations in every individual case and for every type of property. Accordingly it was agreed to adopt a formula by which, on the general evidence already presented, the commissioner would recommend a general percentage allowance for each category of claim, with the provision that evidence could be presented in special cases to secure a higher award. During the next year the legal counsel checked over each case carefully, and where any special evidence existed, the case was presented before the commissioner. Finally, in the spring of 1950 Mr. Justice Bird completed the hearings and submitted his report to the government.

On June 14, 1950, the report was made public. In general the commisioner found that the amounts paid to the Japanese Canadians for their land and chattels were substantially less than the fair market price. Thus the Co-operative Committee's

claim that injustice had been done was upheld. The commissioner recommended payment of an additional $1,222,929, representing about half the total sums previously paid for Japanese-Canadian property. He found that the greatest undervaluation of real estate had occurred in the Fraser Valley where the custodian had turned over Japanese farms to the Veterans' Land Act administration for about half their value. In this area the former owners received additional payments averaging 80 per cent of the original price. In other areas the rate was lower, and in some cases, particularly those of Vancouver City property, the results were unsatisfactory. However, on the whole, those concerned felt that rough justice had been done, considering the complexity of the problems involved. (There were 2,420 claims, in which 8,966 exhibits were filed, and 25,046 pages of evidence given.)

The total expenses incurred by the committee for the valuation and legal costs connected with the property hearings amounted to $158,000. The claimants paid the retainer fee of one per cent of their claim, plus 5¾ per cent of the awards they obtained. This made up about $100,000 of the total $158,000, and the government reimbursed the committee for the remaining $58,000, which covered the costs of presenting the claims outside of the straight legal fees.

In the year following the report, the Co-operative Committee continued to represent the Japanese Canadians in negotiations connected with the final settlement of the claims. By the fall of 1951, when the work connected with the claims was completed, the committee was ready to dissolve as a separate organization.

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12

Afterword

TODAY the Japanese Canadians are no longer treated as second-class citizens. The bitterness and discrimination of the war and postwar years have largely disappeared. On March 31, 1949, the last of the restrictive orders-in-council lapsed. The Japanese Canadians were then free to return to the British Columbia coast if they wished, but most of them are now satisfactorily settled in other parts of Canada. On April 1, 1949, they were given the right to vote in B.C. provincial elections for the first time. This granting of the franchise marked the falling of the last barrier to their full citizenship rights. Today, in many Canadian cities, Japanese Canadians are working in a wide variety of trades and professions, and they are freely accepted by most of their neighbors and fellow workers.

Thus, after eight years, the issues which led to the forming of the Co-operative Committee on Japanese Canadians have been settled. The committee was not solely responsible for this settlement, but it did play a leading part. It was the instrument by which thousands of Canadians who wanted to see justice done were able to influence government policy. Without the committee, the very vocal anti-Japanese minority would have continued to make its attitude prevail. Because the Co-operative Committee provided a rallying point for the many people of good will across the country, it was able to persuade the government to modify or reverse its stand time after time. Over the critical years it acted as a watchdog of democracy, making its voice heard on issue after issue, shifting its emphasis where necessary, but continuing to press for full citizenship rights for Japanese Canadians.

The test of democracy is how well civil liberties survive in a time of crisis, and it is heartening to know that in a time of crisis a substantial cross-section of Canadians could rise above the prevailing hysteria to protect the democratic rights of a minority group. In fact, his secretary said that Prime Minister King had received a greater volume of mail protesting the proposed deportation than about any other issue in all his years as prime minister.

The particular crisis that called the Co-operative Committee into being has now passed, but there will always be fronts on which our civil liberties are threatened. Perhaps this story of what one group was able to do will encourage other groups working on these other fronts. Here is one clear-cut example of how individual citizens, by banding together, managed to change the course of events in a very significant way. They made democracy work because they cared enough about it to make it work. What they did can be repeated.

P.O. Box 56,
Ganges, B.C.,
July 15, 1950.

E. Kagetsu, Esq.,
8 Mountain Avenue,
Toronto, 9, Canada.

Dear Mr. Kagetsu,-

Replying to your letter of July 8th enclosed herewith please find copies of Official Scale of Timber, by Grades and Species cut under Timber Marks 2 K 9 Crescent and 1 C 6 Crescent, i.e. T. Sable River Logging Co. (Deep Bay) and Stoltze Logging Company Ltd., during the years 1949 and 1950 to June 30th.

All of the Timber cut under Timber Mark 2 K 9 Crescent came from your property at Deep Bay. Timber Mark 1 C 6 Crescent covers Blocks 195 and a portion of Lot 403. Of the amount of Timber cut under this Mark an estimated 2,400 M. was taken from Block 195 and the balance of the amount was taken from Lot 403. This estimate of the amount of Timber logged from Block 195 was arrived at by reference to the Forest Service logging operation Maps showing the areas logged during 1949 and 1950. The logged area covered 60 acres with an estimated stand of 40 M. per acre makes up the 2,400 M.

I certainly agree that the $50,000 is absurdly low and I sincerely hope you are successful in your appeal.

Will write you further on my return to Ganges today.

Yours sincerely,

Wm. Byers.

WM. BYERS.

TIMBER SCALED FOR T'SABLE RIVER LOGGING CO.

TIMBER MARK 2K9(- 1949 & 1950.

		1949		1950 To June 30th	
Fir	#1	258,508		55,564	
	#2	1,902,743		579,892	
	#3	1,157,388	3,318,639	310,656	946,112
Cedar	#1	41,193		-	
	#2	358,039		18,237	
	#3	518,246	917,478	81,572	99,809
Hemlock	#1	51,358		-	
	#2	166,872		456	
	#3	719,365	937,595	10,995	11,451
Balsam	-		463,971		1,304
Cypress	#2	10,405		-	
	#3	66,600	77,005	59	59
White Pine	#1	1,322		-	
	#2	49,358		268	
	#3	40,363	91,043	627	895
Fuel Logs	-		46,969		10,742
			5,852,700		1,070,372

Mine Timbers 7,620 Lin. Ft.

Bay

Fanny

TIMBER SCALED FOR STOLTZE LOGGING CO. LTD.

TIMBER MARK 1C6(- 1949 & 1950.

		1949		1950 to June 30th	
Fir	#1	309,818		69,101	
	#2	2,440,392		959,357	
	#3	989,182	3,739,392	532,095	1,560,553
Cedar	#1	31,915		3,085	
	#2	218,942		61.753	
	#3	374,696	625,553	198,919	263,757
Hemlock	#1	61,937		10,365	
	#2	670,097		139,447	
	#3	2,669,271	3,401,305	595,911	745,723
Balsam	-		743,363		10.698
Cypress	#1	7,007		-	
	#2	9,511		2,361	
	#3	11,082	27,600	2,388	4,749
White Pine	#1	3,988		-	
	#2	78,315		31,801	
	#3	52,741	135,044	22,600	54,401
Fuel Logs	-		109,006		2,184
			8,781,263		2,642,065

Poles 2,285 Lin. Ft.

Bk 195

P. O. Box, 56
Ganges, B.C.
Aug. 27th 1950

H. Hagetsu Esq
8 Mountview Ave
Toronto 9, Ont.

Dear Hay.

Got your letter last night on my return home from a visit to Vancouver Island. I will get the information for you which you request. I will endeavour to get it by letter and thereby save the expense of a trip to Vancouver but as you probably know the information you want is not published by the Joggers Association, in fact they are very loath to divulge it to anyone outside of the Association, however, I know they have this information compiled and if I cant get it by letter I will go over and dig it up myself from a source to which I have access.

Glad to hear you are back with your Dad again and wish you every success in your business.

Please give my Regards to your Mother & Dad.

Yours very truly
Wm. Byers

PREPARATORY

B R I E F

BRIEF

BY H. KAGETSU

(BASIS FOR FORMAL MEMORANDUM)

RE

CLAIM NO. 1388

(E. KAGETSU, DEEP BAY LOGGING COMPANY, KAGETSU & COMPANY)

AND

COMMISSIONER BIRD'S REPORT

$31,794 disbursement

WRITTEN FALL 1950

BRIEF re CLAIM 1388 and COMMISSIONER BIRD'S REPORT

TABLE OF CONTENTS

	Page
INTRODUCTION	1 - 9
TIMBER CLAIM	
A--MARKET TRENDS	10 - 13
B -- UTILIZATION	13 - 18
C -- VOLUME	18 - 26
D -- QUALITY AND GRADE	27 - 29
E -- ACCESSIBILITY & LOGGING FACTORS	29 - 33
F -- STUMPAGE VALUE	34 - 40
FELLED, BUCKED & COLD DECKED TIMBER	41 - 43
LOGGED OFF LANDS	44 - 45
LOGGING RAILWAY	46 - 48
SUMMARY	49 - 52

APPENDIX	A	COMMISSIONER BIRD'S REPORT
	B	BLOCK 195 and DEEP BAY AREA TIMBER VOLUMES BY SPECIES EXPRESSED IN PERCENTAGE
	C	ACTUAL CUT BLOCK 195 to June 1950
	D	ACTUAL CUT DEEP BAY AREA to June 1950

KAGETSU & CO., LTD.
TIMBER EXPORTERS

VANCOUVER CANADA 19

FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

I N T R O D U C T I O N

At the outset, it is strongly stressed that no criticism is directed towards the war evacuation policy, towards those who were assigned the difficult task of liquidating Japanese property, towards any party who were retained as advisers regarding liquidation, or towards the purchasers of Japanese property. It goes without saying that an emergency state existed and all had but one goal -- to win the war. It is believed that those concerned with the liquidation of our property diligently took reasonable measures to protect the interests of the claimant. However, the fact still remains that circumstances beyond the control of the liquidators developed, which produced most unfavourable results for the owners.

No CRITICISM

This brief is respectfully submitted with the contention that the claimant should not suffer because of the war emergency.

Rather than criticism, great admiration is felt for the Commissioner for the commendable manner in which he presided over the entire inquiry and for the comprehensible presentation of his report in this case.

Notwithstanding the above, the claimant does not feel at all satisfied with the Commissioner's conclusions in those matters that had to do with:-

The value and quantity of timber on Block 195, Cowichan District.

The value and quantity of standing timber

ITEMS 1, 2 & 3

on 11 Blocks, namely Blocks 617, 504, 566, 274, 263, 198, 234, 267, 276 and Lot 88, all of Newcastle District; together with the value of certain cut timber in the woods, and the value of the land and immature stands on the aforementioned Blocks, all of which has been labelled as the Deep Bay Property.

And, lastly, the railroad on the Deep Bay Property.

These items have been enumerated by the Commissioner as numbers 1, 2 and 3 respectively.

This brief is written on the assumption that the reader is already acquainted to some degree with the facts in the Commissioner's report which is herein appended. The pages referred to herein are those of the transcript of the Inquiry.

The claimant from the start (p.9-10 Norris) emphasized that because of the evacuation, all the assets had markedly dropped in value from such reasons as:

(1) The thriving Deep Bay property could no longer be considered as a going concern especially when the camps were modelled to suit Japanese and the forced cessation of operations had resulted in complete disorganization of camp and equipment. And, this was truly a going concern. "In my opinion, it was very efficiently managed and as far as forest protection and utilization was concerned, it was as good as any other " said one witness (p.266-7 Byers; see also p. 43-44 Norris).

GOING CONCERN

(2) The alienation of adjoining tracts of timber to Alaska Pine Company. Evidence was produced (p.40-42A, p.45, p.90-91 Kagetsu; p.758-9 Field) to show that the claimant would have had access to at least an additional 60 million feet of timber in which to operate, thereby materially enhancing the value of the Deep Bay Property. The Crown

ALIENATION TO ALASKA PINE CO

acknowledged (p.42 McPherson) the unfavourable effects of this misfortune. Prior to the sale, Mr. C. Stewart who was acting as the claimant's solicitor, wrote to the liquidators thus: "The whole picture has been wrecked, as you know by the option.....we would have made a deal before now." (Ex.32).

(3) The market was well aware of the inevitable sale of Japanese property, hence were expecting bargain basement prices. This is why the claimant could not effect sales at reasonable prices immediately following evacuation. Consider further, for example, the ridiculously low offer (Ex.45, p.2, 1945 report, p.679 Wray) of only $12,000 for the Deep Bay Area by Mr. E. L. Robson, a logging contractor for Alaska Pine Company! This particular offer was so low the liquidators felt "...exceedingly annoyed... " at what was considered to be a very "frivolous offer" (p.680 Wray). A further example is the apparent indifference (p.886 Shaw) of H. R. MacMillan Company just before the advertisements of sale. This same indifferently inclined party was the sole bidder for either of the claimant's tracts of timber! It is not likely, therefore, that the bids were very high. Buyers knew that these sales were of a forced nature especially with the acute lumber shortages (see Ex. 44 & 50 re urge from Timber Controller) therefore, were naturally at a decided psychological advantage.

EXPECTED BARGAIN PRICES

(4) The liquidators had to make sales by calling tenders with such unattractive stipulations as (see Ex.28, Ex.46):-

No warranty to title
Immediate cutting of timber (p.726-27 Wray)
Highest bidder not necessarily accepted

Consequently, only one party, H. R. MacMillan Company, saw fit to submit a tender for either of the properties. This is most significant because many were seeking stands of timber about that time as brought out by the evidence of more than one witness (p.294 Byers; p. 573 Brown).

UNFORTUNATE ADVERTISEMENT

Reluctance to buy because of the above is obvious. (p.370 Allison). Some of the less apparent reasons were:

> The buyers would not be able to use this timber for forest management purposes because the contract would not permit of postponed cutting (p.601 Schultz)
>
> The advertisements were construed to mean no time would be afforded to permit of well studied logging operation plans (p.601 Schultz).
>
> American buyers were not interested unless they could hold the timber until export embargoes were lifted (p.571 Brown).

SPECULATION PRECLUDED

(5) All elements of speculation for a future lucrative market was entirely eliminated to prospective purchasers because the timber could not be held (p.587 Brown) since the condition of sale was for immediate operations; and at a time when the upward trend of the timber market was obvious.

INTANGIBLE VALUES LOST

(6) Intangibles such as goodwill and verbal agreements, for example with E. & N. Railway (p.15) and Victoria Lumber and Manufacturing Co. (neighbour operation), could not be passed on by the vendor to any succeeding operator.

PECULIAR VALUES LOST

(7) Items having peculiar value only to the claimant no longer had much value, for example, farmlands around camp, baseball field, foreshore lease, booming grounds, oyster beds (p.37-38, also Ex. 7). The claimant having pioneered in the cultivation of oysters, many are now actually engaged in a prosperous oyster business in that vicinity.

EXPERIENCED RAILWAY OPERATORS SCARCE

(8) Loggers skilled in railway operations were becoming scarce. Those who favoured railway operations, therefore, were mostly the big concerns with long experience and with available technically trained personnel. The smaller logging contractors, who greatly increased in number during the war, preferred truck operations because the initial capital outlay was smaller and the planning was much less involved. (Those who are logging in the former holdings of the claimant might be classed in this latter group.) Had more of these smaller logging companies been experienced in railway operations, as the claimant definitely had been, the assets of the Deep Bay Property would have had greater sales value. That is to say, the Deep Bay property had added value to the claimant or to any other logger experienced in such an operation as his.

HISTORY

The brief history of the claimant's stand in chronological order is as follows:-

(1) The claimant approached the custodian in vain (Ex.11) for continuation of operations, at least for a limited time especially in view of the dire need for logs for the war effort.

(2) Having thus failed, the claimant gradually considered private sale negotiations, but the obvious necessity for sale resulted in no attractive offers.

(3) The claimant then was willing to compromise, but even that produced no results.

(4) The custodian then deemed it necessary to take the helm.

(5) The claimant while trying his best to co-operate, persisted in his unwillingness to sell at the offered prices which were so very low. (See Ex.32, Ex.35, also p. 228)

The claimant makes appeal therefore, in view of the above, that the term "fair market value" in Order-in-Council P. C. 1810, as amended by Order-in-Council 3737 be extended

to mean fair and reasonable compensation (p.1202-1209 Norris). Reference is made to the judgment of the Supreme Court of Canada in the case of Diggon-Hibbon Ltd. vs the King (1949) S.C.R. 712. In this case, the court approved of the case of Irving Oil Co. Ltd. vs The King (1946) S.C.R. 551, thereby ruling that compensations should be made for a party being prevented from continuing in business. The claimant or, the custodian acting on his behalf, because of the war emergency could not continue in business, one which had been gradually built up since 1923 into proportions of a sizable community (Ex.7; p.35-37, p.236).

FAIR AND REASONABLE COMPENSATION

Further, the judgment was that all elements of value to the owner were to be compensated. The Supreme Court ruled that a ten percent allowance on the fair market value be awarded to compensate for various intangible and indirect losses.

The claimant merely asks that in lieu of this ten percent compensation, all aspects of this case be considered not unkindly, but with much circumspection, fairly and reasonably. It is suggested that leniency is justified in view of the manifold adverse circumstances. And, it is believed that strict consideration of the elements of this case would be grossly unfair for many reasons outlined herein.

The Commissioner not only has disallowed this ten percent compensation (reasons not being given) but also, in the major issues, those involving timber, he has compensated merely for the difference between actual price of sale and what in his judgment was the fair market value. Unfortunately, the fair market value that the Commissioner has arrived at is usually the value which had shrunken as the result of the adverse effects of the evacuation of the Japanese from the

coastal areas of British Columbia.

At this point, the claimant wishes to stress that circumstances have been most adverse for him from the start of the conflict with Japan. To begin with, the rapid evacuation put him at a decided disadvantage so far as company and personal matters were concerned, especially in the way of records, not to mention mental confusion. After being evacuated, he did not, personally at any rate, have access to records which would have been most helpful to him in evaluating his various properties. Because of the existing circumstances, he had to rely mostly on memory and resort to guesses. Even at the time of drafting the initial claim, was this the case (p.137, p.180-81, p.184 Kagetsu). Unfortunately, even at the time of the inquiry, he did not have available certain records (p.481 Baldwin, p.738 Wray) which would have been of value not only to him but to the Commissioner as well, because through such matters as the sale of furniture, things had become lost. This is raised merely to explain what might be construed as inconsistency on the part of the claimant with regard to certain figures of value or quantity.

ADVERSE CIRCUMSTANCES

The claimant asks that this case be weighed on the merits of the evidence produced, without prejudice from certain figures which may have been given prior to the opening of the inquiry. Moreover, it is held that, in some cases, reports of volume and price to which the claimant allegedly committed himself are vague because much of the Deep Bay Property was in fact the property of not the Deep Bay Logging Company, but the claimant personally. This

MISUNDERSTANDING AND CONFUSION EXISTED

confusing situation was made worse by the inadequate knowledge of English on the part of the claimant, and by the fact that vital communications had to be done by wire (telegrams). Discussions prior to or during the sale of the Deep Bay Property, e.g. re volume of 17 million or the price of $40,000 for the timber are shrouded with misunderstanding on the part of the claimant on the one hand and the liquidator on the other (p.756 Field).

It is the claimant's opinion also that the case should not be prejudiced by what certain properties had originally cost the owner. Not only have there been many years of charges such as interest on loans and taxes, (e.g. the cumulative cost of Block 195 to 1942 was $121,515 - Add '43 cost p.17) but for the timber the risk had been high. Major losses from fire, disease, insects or storm, especially from the former, are commonplace in the logging industry. And, insurance against these hazards has never been possible. Also it goes without saying that it is this spirit of speculation, the willingness to take risks that makes for success of the free enterprise system. The claimant had taken risks for which rewards were on occasions deservingly forthcoming.

ORIGINAL COST

vs Commissioner's Award $111,000

The claimant also stresses that this case should not be prejudiced by what was and what was not used by the purchasers of his property. For example, circumstances were adverse (p.932 Shaw) for the operators succeeding the claimant to use the existing booming grounds and dumping pier. It was not that the latter had no value. Had the claimant

PROPERTY NOT USED

VALUABLE PROPERTY NOT USED

continued to operate, such improvements would beyond any shadow of doubt have continued to be invaluable. With regard to the railway, there is little doubt that it would have continued in use by the claimant (p.851; p.1074) especially with war shortages, notwithstanding the difference in opinion of witnesses concerning the efficiency of such hauling. And had the railway not remained idle to deteriorate for two years following the claimant's evacuation and had the purchasers not been so shrewed, as H. R. MacMillan Company is reputed to be, as to realize that by not buying the railroad they would receive the same roadbed gratis; there is some doubt as to whether the succeeding loggers would have abandoned the railroad method in favour of trucking.

T I M B E R C L A I M S

A - MARKET TRENDS

The Commissioner established the following as effective dates of sale: Block 195 - June 15, 1943

Deep Bay Area - March 13, 1944

INDEPENDENT MARKET PRICE UPSURGE FOR STUMPAGE

At this point, it may be well to outline some of the factors which cause the price of standing timber, that is, stumpage, to rise. As is explained later, it is fallacious to think that stumpage prices are inflexibly dependent on the price of logs. Quite independent of the log market, there exists a market for standing timber. And, the demand for standing timber depends on the shortage of supply, which condition was being felt from before World War II. The demand also depends on the foresight of sawmill operators. That is, to what extent they can envisage the need to add to their timber inventory to insure sustained production. Speculation, in a very favourable capital appreciation precipitated by the war, is still another cause for an increased demand in standing timber. And, lastly there is the logger who wishes timber for immediate operations.

ONLY 7 PERCENT PRIVATE

All these factors from the early days of the war had but one effect-- that of making stumpage values steadily rise on any timber tract of fair proportions (p.369 Allison). Especially was this true of private timberlands which aggregately form only 7 percent of the forests of British Columbia, the remaining 93 percent with concommitant logging restrictions being held by the crown (p.1019 Schultz).

Up until November 1945, a price ceiling for logs existed (p 98 Burke, also see Ex 12) Therefore

while the demand for logs was extremely high during 1943, 1944 and 1945, log prices rose only in a controlled fasion as the ceilings were raised. It is emphasized that the rapid rising of log prices subsequent to 1945 was

CAUSES FOR LOG PRICE JUMP

the result, not of higher demand but because the ceiling was removed. The powers-that-be in any big industry can prognosticate roughly the demand immediately ahead. Surely, if a surge of demand was pending, the ceilings would not have been removed. The demand for logs was at peak levels prior to 1943, as confirmed by the testimony of Mr. J. H. Burke, Manager of the B. C. Loggers Association, who stated: "By early 1942....I can say that practically any log of reasonable quality sold at ceiling prices." (p.99). He further said: "The last four years (which takes us prior to the lifting of the ceiling) anything that could be called a log and given a grade would sell." (p.105). Such was the high demand for all logs during 1943 and 1944 as compared with later years.

Furthermore, it was not the demand but rather the increase in production costs which caused log prices to rise after 1945. When cross-examined, Mr. Burke said, "If you will say the increase was due to the increased cost of producing logs, I will agree."(p.100).

DEMAND & LOG PRICE NOT PARALLEL

Therefore, the rapid rise in log prices is no criterion of increased demand for logs. Mention might be made of statements made by crown witnesses. Mr. Keith Shaw, senior executive of the H. R. Mac Millan Company, testified thus: "The market conditions change and they change fast. Take the present market for the lower grades of cedar and hemlock, and you wonder whether you are going to take it out in the spring or

KAGETSU & CO., LTD.

TIMBER EXPORTERS

VANCOUVER CANADA 19

FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

not" (p.912). Mr. Eustace Smith, a well known timber cruiser, said: "Today they are taking out less (cedar) because cedar is no good now." (p.820). Yet, since 1940 prices of cedar and hemlock have steadily increased to the point where in 1948 they were about double 1943 prices (see Ex. 12).

The actual log prices (average for the year) from B. C. Loggers Association are as follows:-

	Cedar	Hemlock	
1943	$21.19	$18.14	Demand very high for both
1944	22.99	19.88	" " " " "
1948	42.11	36.97	Demand poor for both

This lack of parallel between log demand and log prices prove the unreliability of using the latter as any kind of guage for stumpage values.

Throughout the war, no attempt whatsoever was made to peg stumpage prices. Consequently, stumpage prices rose percentage-wise relatively faster than log prices. And, the rise came much earlier also (p.398 Allison), which was explained by one well qualified witness (p.294 Byers) thus : "There were large mergers of logging companies in this province, and that created a condition of alarm amongst the smaller operators. And they thought that if they did not get into the timber business themselves and purchase standing timber, that they would not be able to purchase logs to keep their mills running. And from then on, the race for timber was on. And stumpage prices started to skyrocket and they skyrocketed long before the price of logs, when the controls were taken off."

EARLY RISE OF STUMPAGE FROM DEMAND

In regard to the value of standing timber as against logs, the Commissioner asked one of the leading timber operators of British Columbia: "What was the situation in '43, Mr. Brown?" to which he replied, "It was starting up. It was definitely better. People were looking to buy timber at that time in quite a few instances (p.573)." And, by "people" he was referring not only to local timbermen, but also to foreign interests, as attested by: "And, in view of the fact that there were these prohibitions on exports, the foreign buyer was pretty well out anyway, whether he had to operate immediately or not, wasn't he?" (posed by crown counsel). Mr. Frederick B. Brown replied, "No, they were looking for timber and still are even with the prohibition on Crown granted timber on the assumption they will change in the future. They are still interested." (p.587). The witness (Mr. Brown) was well qualified to make that statement as he in fact had very influencial American connections (p. 571)

B - UTILIZATION

The Commissioner has concluded that current utilization is closer than in 1943 or 1944 to the extent that ten percent increase in volume has resulted. To this, the Claimant vehemently disagrees.

UTILIZATION DEPENDS NOT ON LOG PRICE

One might point out that utilization depends chiefly on the demand for logs. It is important to distinguish between <u>demand</u> and <u>price</u> of logs, which do not by any means, as already explained, parallel each other. The price of logs has depended mostly

on the cost of production and price control. It is easy to see that if production costs are high, as they currently are, loggers definitely cannot afford to practise close utilization to any great extent.

In this connection, witnesses had the following to say:

CLOSE UTILIZATION TESTIMONY

William J. Allison, a prominent logger: "I would say about 10" top diameter would be about average." (p.391). This was in reference to 1940, but he further said, "I don't think there has been any change since 1940 until now." (p.392). The Commissioner asked, "Was it economical to cut down to as low as 12" DBH (Diameter Breast Height) or was it say in the period from 1940 to 1944?" He replied, "I would say so, my lord, in certain operations. Where they had reason for wanting small timber, it would be economical to do it." (p.392) Earlier, Mr. Allison had testified that in 1940, 10" logs were saleable (p.378).

Frederick B. Brown, one of the best known loggers in British Columbia, when questioned about 1943.. "Yes, I think 9" and 10" top was as low.....at least 85 to 90 percent of the loggers were cutting that," (p.583) suggesting that that was the case using ordinary equipment.

Charles N. Pretty, prominent timber broker of long standing, "I think the Government qualifications are the same today as they were roughly six or seven years ago, that is the government timber sales. It is possible in the case of hemlock that smaller logs are being taken at the present time, but generally speaking, from the experience I have had, there is very little difference." (p.629).

CLOSE UTILIZATION TESTIMONY (cont'd)

Charles D. Schultz, widely known forester and forest engineer, had this to say: "I think keen management would go after that (Close utilization) every time, because obviously if management buys an area of timber for a lump sum, every stick taken off is going to increase the over-run to reduce the original stumpage price and make the operation more economical." (p.520). "Well, I would say from 1936 on you get that trend of increased utilization." (p.521).

William Byers, timber expert of long standing, said: "I would say that the change occurred around '35 and '36. They were taking out logs of that diameter (12" butt). And I think that can be proved by the scale and by the tally sheets and the royalty account on which you will see these logs taken down to 8,9, and 10 inches in diameter". (p.269). Evidence was subsequently produced (p.450-455) by borrowing records from the Forest Branch verifying the above. To the question, "I take it from your evidence that pretty nearly everybody in this province from 1938 on....as a general policy were taking out trees down to 12" breast height?" W. Byers said, "As a general practice, yes." (p.346).

The Commissioner asked John N. Burke, "There was evidence led yesterday to the effect that logs 12" at the butt (or) breast high, were marketable and actually marketted as logs in the period 1940 to 1944" to which he replied, "I will certainly say that is correct." (p.103).

The Commissioner veritably made repeated reference to Chief Justice Sloan's Forestry Report of

SLOAN REPORT

B.C. (1945) in which is described a re-logging operation at Ladysmith on a cut-over made prior to 1943 (Ex.55). The extract was, "The original logging produced approximately 6,405 cubic feet per acre, and logs down to a top diameter of from 9" to 10" were recovered, indicating close utilization under present logging methods." To this all witnesses to whom the Commissioner presented the matter subscribed, e.g. Mr. Eustace Smith (p.819). In particular, Mr. C. D. Schultz replied, "We (Bloedel, Welsh & Stewart Logging Co.) were trying to get our fallers to cut to 6" at that time, but that was the general practice at that time." (p.523).

CLAIMANT'S UTILIZATION

It was further brought out in the evidence (p.491-2) that from 1938 on, the claimant himself on many occasions made up booms of small logs only and sold them on the market as "peewee booms". This practice was at one time common to many loggers. One could also well mention marketable poles and piling which were in great demand during the war.

Having established that close utilization has existed for a long time, it is attempted hereby to enlarge on the relative utilization between 1943 or 1944 and the present. Mr. J. N. Burke asserted, " You would be right if you said the sale of all quality logs was falling off and small logs of some species." (p.107). This is in contrast to the high demand which existed previously as indicated by the same witness. "(In) the last four years (previous to '48) anything that could be called a log and given a grade would sell." (p.105 Burke).

1948 UTILIZATION DOWN

Furthermore, in reply to the question: "Well, do you say today they are taking out more cedar than they were in '43?" Mr. E. Smith, crown witness replied, "No, today they are taking out less because cedar is no good now, but a year ago it was very good." (p.820). In another instance he said, "There isn't market today even for poor hemlock." (p.800).

Another witness, Mr. Charles N. Pretty said: ".....some discretion is commencing again at the present time (1948)." (p.629).

1948 UTILIZATION DOWN

Mr. Keith Shaw representing the purchaser of both Block 195 and the Deep Bay Area, asserted, "The market conditions, they change and they change very fast. Take the present market for the lower grades of cedar and hemlock, and you wonder whether you are going to take it out in the spring or not, and that would make a very great deal of difference to the amount that was left, because if the logger cannot take it out at a profit, it has to stay." (p.912).

When questioned on the current actual utilization of the T'sable River Logging Company who now operate on what was formerly the Deep Bay Property, Mr. C. D. Schultz testified, "....we found from the current logging practice on the area, it was 18" (inches) or over." (p.1011). "....our inspection of the (cut) timber indicated the cutting was 18" and over."(p.1011). This is as against 12" of previous years as already proven.

Obviously, the degree of utilization depends on economics and consequently it fluctuates in response to economic conditions. And, while in 1947, the price

of logs was very favourable to the logger, conditions subsequently have been such as to force loggers to become lax in utilization, to the point where utilization in 1943 and 1944 in many instances could be considered superior.

C - VOLUME

The following are the pertinent volumetric estimates, all species included, which were produced as evidence:

For BLOCK 195:

Smith's Volume.....30,996 M.b.f.
Schultz's Volume.....55,474 M.b.f.

For DEEP BAY AREA:

Smith's Volume.....16,598 M.b.f.
Schultz's Volume.....56,520 M.b.f.

Liquidation was made on Smith's estimates. The claimant hastens to add that the seemingly wide disparity between the cruises of Smith and Schultz, who are both fully qualified and competent cruisers is in fact not real, as the two cruises are not altogether comparable although they are both for areas within the same boundaries.

In the first place, it is important to appreciate the object of Mr. Smith's cruises. While, as the Commissioner reports, Mr. Smith acknowledged his cruises to be conservative, he made them also with the view to ascertaining only the minimum of standing timber. He has not purported otherwise.

SMITH MADE QUICK CHECK

Consider for example his opening paragraph of one of his reports (Ex.45 Schedule 2 '45 report)

"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..." He further remarks, "...my check would indicate that the cruise....is all there." Further, the Commissioner at one point asked, "The figure you estimated is a confirmation of the Prior's (E.& N.) cruise (Deep Bay Area) rather than your own figures?" Mr. Smith replied, "That's right. After I had cruised it, I felt sure the timber was there." (p.863). Lastly, with regard to Block 195, he testified thus, "I never made a re-cruise." (only a check in 1940 on a very old cruise of 1923) (p.843). His estimates were obviously only of a cursory nature.

By reason of the nature of his cruises, Mr. Smith does not give any description of the method in which his cruises were carried out for either of the properties. His justification lies in the fact that doubtless his were only general examinations. In marked contrast to this, Mr. Schultz endeavoured to get as good an estimate as possible under the circumstances. His sampling was carried on meticulously. Further, other aspects of the cruise were executed with far greater care and detail than is customary for commercial cruises (p.511-512, p.595, p.1005-1007). In the case of Block 195, he made technical analysis of his sampling to confirm the accuracy of his cruise (p.513,515, also Ex.15). On the Deep Bay Area, Schultz used the most up-to-date methods of cruising known to forest engineers, that of doing his ground work

INTENSE SYSTEMATIC CRUISE BY SCHULTZ

in conjunction with aerial photographs (p.1002-3, Ex. 61). It might be added that Mr. Smith's remarks about aerial photography were, "It is extremely useful for mapping....getting out very accurate maps.... they are very good."(p.1161).

It is easy to see that cruising is far from an exact science (p.841 Smith), for obvious reasons such as the vastness of the area, variations in the shape of trees, heterogeneous composition of the stands, etc., etc. It is not like measuring the content in a pile of lumber where by taking the external measurements, a quick estimate can be ascertained reasonably accurately. There are no short cuts to cruising. Therefore, when it is deemed advisable for economic reasons, for inadequate time or any other reason, to make a timber cruise which is not too intense, the accepted practice is to make the estimate very conservative. And, the logic is very sound. When master logging plans are developed on the basis of these cruises, the operator after huge capitalized expenditures will inevitably find more timber than was reported instead of an acute shortage which would make him go bankrupt. In short, if a close estimate is required, such as for purposes of important lump sum sales, such can be attained only by a very intense systematic cruise. Unfortunately, the liquidators found it inopportune because of war conditions to have intense cruises made (p.746).

ACCEPTED PRACTICE

To enlarge further, Mr. Smith's cruises not being intense cruises but merely checks, are low, as to be

expected as has been other of his cruises of that type. This is verified by the following:-

ALL QUICK CRUISES LOW

Crown Counsel asked "And, when you speak of it (actual cut at Nanoose) being considerably over the Eustace Smith Cruise, could that be accounted for by the fact that Eustace Smith might have cruised down to only 18" D.B.H.?"

Mr. Charles N. Pretty, prominent timber broker, replied, "I don't think that would have anything to do with it. Many of Eustace Smith's cruises have been very conservative." (p.631). Also, logging operators will agree that E. & N. cruises (Timber of Vancouver Island subsidiary of C.P.R.) have up to not long ago been consistently extremely low (p.27, p.38-39 Kagetsu; p.383 Allison) for the very same reason that the cruises were of a very general nature. Testimony was given that its rough cruises have had overruns exceeding 100 percent on occasions (p.27, p.38-39 Kagetsu). It was only in 1940 that the E. & N. by degrees inaugurated systematic cruising methods (p.829 Smith).

The Commissioner understandably experienced some difficulty in reconciling the disparity in the estimate of volume submitted by various experts. It is his opinion that inadequate discrimination between "merchantability" and "accessibility" is the explanation. It is held that the volumes claimed are unequivocally from the point of view of "accessibility" as defined by Chief Justice Sloan and reproduced in the Commissioner's report of this claim.

MERCHANTABILITY VS ACCESSIBILITY

Consider, for example, Schultz's Forest Inventory of Deep Bay Area (Ex.61) on which the claimant's volumes are based. On page 2 of the report, it states, "Deductions were made for breakage and defect from inspection of the ground and timber conditions." Average deductions applied were as follows:- Cedar and Hemlock 30 percent, Balsam and Fir 20 percent. To insure the recoverabilty and "accessibility" of the volumetric estimates, a total of 11,143,000 board feet has been deducted for this account.

Furthermore, excluded because of questionable accessibility were 3,302,000 board feet which is the volume of all the wood between 12" and 18" in diameter at breast height. This sizable deduction was made not because the timber was not "merchantable" as there is no doubt it was, but because the claimant and his experts could not count on this smaller timber being "accessible" in this particular case.

Also, perusal of page 1 of Exhibit 15, Schultz's timber estimates for Block 195, will readily reveal that a very considerable amount has been deducted for factors of "accessibility" namely to the extent of 13,518,000 feet board measure!

The Commissioner reports, "The claimant caused volume cruises to be made...Both are expressed to relate to conditions pertaining to 1943, though in my judgment the appraiser (Schultz) has not successfully avoided the influence of the changed condition which are shown to have occurred subsequent to 1945.... These factors in my opinion serve substantially to explain the divergence of opinion noted on both principal

issues (volume and price)."

DATE NOT FACTOR

To avoid misconception, price trends of standing timber have been herein already dealt with. As to volume, one might consider Mr. Smith's volume of Block 195 for which his original cruise of 1923 was 30 million feet. In 1940 after almost two decades, his revised estimate was only 31 million feet (p.789). This is despite growth and improved utilization which had taken place during that long interval. Consider further the question put by crown counsel, "Would there be any other types of timber included in your inventory, exhibit 61, which wouldn't have an economic value in 1943?" to which Mr. C. D. Schultz replied, "No, It is my considered opinion that the timber in question all has an economic value in 1943." (p.1100). Hence, to repeat, the divergence is not so much a matter of date, but rather the object or nature of the cruises that were made.

ACTUAL CUT

Again since aspects of utilization have been already presented, almost unshakable figures of volume can be found in the actual cut from the two areas in question. Under the government system of timber marks for wood coming off specified areas, there can be no question of the accuracy of the following figures as to source of the logs (p.259, p.288 Byers; p.908 Shaw; p.1104 Schultz). These figures also represent not the scale in the woods, but the volumes at the dump or delivery point.

For the Deep Bay Area the government scale records show:-

DEEP BAY CUT

Cut up to Dec.'48	16,721,024 bd. ft. (Ex.22)
Cut Jan. to Dec. '49	5,852,700 " "
Cut Jan. to end of June '50	1,070,372 " "
Total to end of June '50	23,644,096 Bd. ft.
" " " Nov '51	(31,230,837)

This is as against Smith's cruise of 16⅔ million feet, Schultz's 56⅔ million feet and the Commissioner's conclusion of 19⅔ (17 plus 2⅔ felled & bucked) million feet. And, it is knownfor a certainty that much timber still stands, enough to permit of several more years of operations. The facts are definitely in favour of Mr. Schultz's estimates being correct.

As for Block 195, the timber mark issued is such that the wood on adjacent Block 403 must be treated jointly. This is to the claimant's disadvantage because evidence shows that Block 195 was superior in that it contained larger timber and less hemlock (p.264,289 Byers, p.793 Smith).

The government scale records show:-

Block 195 CUT

Up to end of Sept '48 (ex.23)	58,752,003 bd.ft.
Oct, Nov, & Dec. '48	4,060,000 (ESTIMATE)
Jan. to Dec. '49	8,781,263 " "
Jan. to end of June '50	2,642,065
	74,175,331
To end of Nov '51	(78,066,702)

Mr. Smith's cruise of Block 195 was 51 million feet. His cruise for Block 403 was 21 million feet (p.795 Smith), making the combined total of 52 million feet. Here again much timber still remains to be logged which in fact indicates that the Commissioner's conclusion of 41 million for Block 195 or aggregately for

the two blocks of 70 million is very low. Schultz's cruise shows 55½ million feet for only the one, Block 195, which according to the above will ultimately prove correct on the basis of any reasonable calculation of apportioning to the respective blocks the final volume realized.

It might be well to point out that Mr. Smith's low estimates as indicated by the foregoing, cannot be explained away by arguments pertaining to hemlock. It has already been proven under the subheading "Market Trends" that the demand in 1943 and 1944 for hemlock was high (p.99, p.105 Burke). Mention could be made of the large mill of Alaska Pine Company (New Westminster) which cut even during the early forties, hemlock in the main, rather than fir (p.847-48). Also, there were logging operators such as Pioneer Logging Company (Port McNeil) which took out in 1943 hemlock only (p.1095 Schultz). Furthermore, exhibit 55 shows that in 1943, hemlock ranked next to fir in the log volume cut. It shows that the cut of hemlock was in fact three times that of spruce for which British Columbia became so famous during the war. The demand for hemlock in 1948 dropped considerably as pointed out under sub-heading "utilization" which further favours the claimant's contentions. And, any intimation that as an exception the cut of hemlock remained high only on the former tracts of the claimant, can be easily refuted. True there is evidence that H. R. MacMillan Company by agreement had to take what was cut from Block 195

HEMLOCK NOT REASON

or from the Deep Bay Area, all undesirable species with the desirable, but also by agreement, such were paid for at prevailing log prices(p.898,p.903 Shaw). Therefore, the loggers concerned would respond to the drop in demand in the same manner as any other logger, that is by taking out less hemlock. And again, Mr. Keith Shaw's testimony may be repeated, "Take the present market for the low grades of cedar and hemlock and you wonder whether you are going to take it out in the spring or not...."(p.912).

D. QUALITY & GRADE

GOOD QUALITY

It goes without saying that Douglas Fir has always remained the choice species in British Columbia and Balsam and Hemlock the less desirable species. The price of Cedar on the other hand, has fluctuated and during 1943 and 1944, commanded a price above even Douglas Fir (see Ex.12). The proportion of the various species on the claimant's tracts is shown in appendix B. Suffice it to say that the percentage of Fir in both areas is very high. Witness after witness concurred that both Block 195 and Deep Bay Area were very good stands from the point of view of species composition and grade as exemplified by the following extracts of testimony:

BLOCK 195

BLOCK 195 TESTIMONY

E. Kagetsu in reply to, "Now what sort of Fir did you find on Block 195?" -- "It was the very best that I have seen." (p.26)

Frederick B. Brown said, "....Fir and Hemlock I would say is of a very good grade." (p.578).

William Byers, timber broker and consultant and former chief scaling supervisor of British Columbia, "Well, it is above average, considerably above average. A very desirable type of timber, I would say." (p.264). "As I mentioned before, the average for the past ten years for No. 1 is approximately 5 percent, with 40 percent No. 3. Here we have 11.5 percent No. 1 and only 25.5 percent No. 3." (p.265). With regard to hemlock, he said, "....would indicate that the stand of hemlock is pretty good." (p.288, see ex.23).

Mr. P. P. Sheehan wrote that (Ex.5), "The fir on this portion of the Block is not extra large, but it is exceptionally long, sound, clean bodied and straight.... The Hemlock and 'larch' (that is, balsam) on this lot... is nice, long, clean, sound timber and will make a fine grade of lumber." Regarding cedar, he wrote ".....there is some exceptionally large and fine trees." As to other parts of Block 195, he again wrote, "The fir on this lot is of an exceptionally high average both as to quality and size, very long, straight, clean, sound and according to the B. C. Grading rules will in the log, run 40 percent No. 1, 50 percent No. 2 and 10 percent No. 3." Obviously, at the time he thought this was indeed a superlative stand. And, this was back in 1923 when utilisation was markedly inferior. Charles A. Schultz said, "Yes, I think Block 195 is good ground and easy construction and had first class timber on it from the evidence and on examination." (p.511, also see foot of p.515). Later he said, "It shows evidence of what we term a good stand which is typical of that area." (p.524).

One need only consider that Mr. Smith and Mr. Keith Shaw of H. R. MacMillan Co. went into that tract (p.790 Smith) around 1943 to look for peeler logs which are the highest premium logs on the market.

DEEP BAY AREA

Frederick B. Brown said, "Well, this is a high percentage for fir, apparently, and very similar to our Royston timber. I think it is very good. It is a good average fir." (p.579 and Ex.22)

DEEP BAY TESTIMONY

William Byers said, "They were very good stands of timber, easily accessible with a high percentage of fir."(p.251). "The grades of fir were very much above average. The grades in cedar were above average and hemlock was also above average." (p.257)

Charles B. Schultz had this to say about the main Deep Bay stand, after having asserted that the fir ran 70 percent No. 1 and No. 2, "That is good fir." (p.1015). He further said that for the Vancouver District, the average grade for fir in 1944 was only 3 percent No. 1 and 50 percent No. 2, a total of only 53 percent (p.1016).

Exhibit 22 verifies the superiority of the Deep Bay timber from the actual production. He went on also to comment (p.1015) about the good quality of cedar.

E. ACCESSIBILITY AND LOGGING FACTORS

BLOCK 195

BLOCK 195 EASY ACCESS

This tract was easily accessible because it was bounded at least on two sides by former operations whose old roads offered alternative outlets.

Mr. Smith in his report (Ex.53) to the liquidators wrote, "The ridges back from the main creek gullies however are on the average, good logging ground and for the most part, well timbered.

.....would have a reasonable crossing of the south branch and fair construction through the eastern part of the Block.

.....we are of the opinion that a truck road can be constructed at a reasonable cost right into Block 195.

....The road can continue on a very slight grade to enter Block 195.

The cost of construction through the old Scottish Palmer works will be very reasonable as most of the route follows along a gravel sidehill."

TESTIMONY

Charles A. Schultz said, "I consider it a good logging chance. It is good ground....no unbroken ground for heavy breakage...It has a heavy gravel content....it is easy road construction." "Cowichan Lake area is a very favourable area to operate in, due to the fact you have small towns like Duncan and Cowichan Lake lying adjacent to the logging area and a ready labour supply. You are close to communication and transportation. In case machines break down you get them into that area very quickly as compared with the north coast, for instance. The Cowichan Lake area has for many years been a favourable operating area." (p.516, see also p.510 Schultz).

Keith Shaw himself acknowledged in connection with road construction, "There was not a great deal of rock work." (p.941).

DEEP BAY PROPERTY

This was a going operation up to the time of evacuation so there remains little question of accessibility. If there remained any dispute, it hinged on whether it was economical to continue operating a railway show, about which witnesses could not agree. In any case it was definitely the claimant's intention to continue operating the railway (contrary to

the Commissioner's interpretation).

Evidence had been produced to show that a large volume of adjacent timber to the west was available to the claimant. (p.40-424, p.45, p.90-91 Kagetsu; p.758-9 Field). Had such been the case to any operator, there is little doubt that a railway operation would have been economical.

RAILWAY VS TRUCK

Going on the premise that no other timber was available, it is still argued that if not a railway, a truck-railway operation could have been profitably carried on to log the more difficult areas (p.1081 Schultz) as practised by several large operators. (p.558 Byers).

Going still further, if an entire conversion to trucks was to be made (circumstances developed such that the new operators preferred conversion) then cost of opening up depended on the value of the existing railroad which at the time of evacuation was in good condition (p.559-60 Swanson, also Ex. 45 Schedule 2, 1943 Smith). Witnesses could not agree to the value of a railroad grade for a truck road. The fact remains, however, that more than half of the old grade was used by the operators who succeeded the claimant. (p.1137 Schultz).

DEEP BAY ACCESS

With regard to the terrain, one witness, C. D. Schultz, testified thus: "...it is an extensive area and it is relatively speaking an easy country." (p.1079). In reply to the question, "In point of fact, there are some high grades there, aren't there?", he replied, " No, not very bad. They are relatively easy." (p.1079).

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VANCOUVER CANADA 19

FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

NOT SALVAGE CASE

The Crown counsel suggested, "....could only treat the proposition as a salvage area after Kagetsu had taken out the best." To this and to the use of the word "patch", Mr. Schultz took strong exception, asserting, "It is a concentrated area...so the term "Patch" would hardly be fair or hardly give the right picture of it. It is a body of timber. It is timber that wasn't logged...."(p.1090).

SIZE OF AREAS

The extent of the timber is easily realized when one considers that fair sized operations (p.1092 Schultz) have now taken place for five years, with many years' timber still standing. One might further mention that these "patches", which collectively formed the Deep Bay timber sale, were 994 acres, 652 acres and 176 acres in size. Compare these with the average size of the government timber sales in the Vancouver district which was in 1944 only 164 acres (Ex.25,p.36). Mr. Smith himself agreed to their being of considerable size (p.1191,p.1193). A look at the map of the Deep Bay Area (Ex.61) will readily reveal that the operations were not a case of taking the best first but definitely one of

ORDERLY PROGRESSION

orderly progression. Surely, a prudent operator, as the claimant was, would not have currently built a new office building (p.45 Kagetsu, p.877 Skelding) or purchased major pieces of equipment, for example, a brand new speeder for $4,000, had sustained full-scaled operations not been contemplated for many years to come. And, it is indeed unlikely that a permanent concern operating on a community scale

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FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

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would be so short-sighted as to take all the best first.

It is important to appreciate that the logging terrain in British Columbia is such that one is limted in the direction the timber can be taken out. It is not flat ground where develpment can be made from any or all directions. Sizable stands of timber are habitually left, therefore, with the view to logging out by a certain planned route. As often as not, the remaining stands contain the choicest of timber. Specifically, the claimant had left two bodies of timber, namely, one to the north in Block 504 and adjacent blocks, and the other to the south in Block 276, with the view to first logging Blocks 617 and 566 and adjacent timber (See map appended on Ex. 61).

CLAIMANT DEVELOPING PLANS

Following this, the steel was to be lifted and relaid to develop the northerly parts of Block 504 and adjoining timber (p.126 Kagetsu). Thence, the development was to be westward crossing T'sable River (Tumblewater Creek) to tap the 60 million feet of timber on the other side. As for the timber left in Block 276, it is adjacent to more timber to the south (p.1068 Schultz) and it was the claimant's hope of selling (foot p.125 Kagetsu) that timber to another operator, it being more natural to log with that timber lying outside his boundary. It has in fact been so logged since (p.1189). Failing such a sale, he could at any time have logged it himself.

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VANCOUVER CANADA 19

FOR RETURN OF

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BOOM NO. AT LOADED TO

F. STUMPAGE VALUE

It has already been shown that for both Block 195 and the Deep Bay Property, the timber quality was good, running high to fir with above average grades in that species. Both these areas, furthermore, had favourable terrain for logging and required less than the usual costs for opening up with roads. To market the logs, the haul to the dump was relatively short. Sheltered booming grounds were available, and the tow to market was relatively short. No hazardous waters had to be crossed as usually the tow was merely across the Strait of Georgia.

WHY TIMBER MOST DESIRABLE

In addition both these tracts had the further advantage of being royalty free which saves the operator around one dollar per M. (p.331 Byers, p.677 Brown).

NO ROYALTY

Still further, these being Crown Grant timber, during normal times, the logs could be exported to more profitable markets. (See p.1031 Schultz). The advantage of this feature is considered to have an added value of from 50 cents to $1.00 per M.b.f. (p.570 Brown).

EXPORT FEATURE

The exportable feature and the timber being royalty free were not contested at the inquiry as there was no doubt whatsoever that those were facts.

Then too, both tracts were of such a size as to permit of fairly large scaled operations for many years, an important factor to purchasers. Also, the owner not only would have absolute title to the timber, but the land also was his for reforestation purposes, farming or for whatever purpose one chose

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FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

to utilise the ground.

Lastly, for the Deep Bay Property, the purchaser received the developed booming grounds, the foreshore lease, the dumping pier, 40 camp buildings, which all told had considerable potential value in addition to the timber. (Ex.45 -p.3 '45 report).

LUMP SUM VS EXTENDED PAYMENTS

Counsel for the crown made attempts to ascertain the relationship between lump sum cash sales and those on stumpage basis, that is, so much per M as the logs are produced and scaled.(This term is not to be confused with stumpage value which is unit value of standing timber.) The advantages of a cash sale would be assurance of being paid and capital is made immediately available to the vendor. On the other hand, overrun on cruises is fwequent and payments on stumpage basis in the long run nets the vendor more money. The same is true when a cruise is unreliable or outdated. Moreover, contracts can be written to award the vendors a premium for rising log prices. And lastly, only the timber and not the title to the land changes with the sale. (p.918 Shaw). Because of these factors, vendors usually are not willing to make generous discounts for cash sales. The fact of the matter is that much depends on the parties negotiating and existing circumstances. This is verified by the various replies counsel received from witnesses. Some quoted 25 percent, others as low as 5 percent. Mr. C. N. Pretty, a timber broker of long standing, was likely the best qualified to

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VANCOUVER CANADA 19

FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

comment on this aspect. He thought ten percent discount for cash was reasonable (p.635). Mr. Wm Byers, another timber broker, was of the same opinion (p.326).

It might be well to add also that there are still other types of sales. Among these is the E. & N. Railway timber sales which is virtually a lump sum sale with extended term payments (carrying interest charges).

SCHULTZ' STUMPAGE APPRAISAL

For the Deep Bay Area, Mr. C. D. Schultz, a very experienced timber appraiser, approached the matter by way of technical analysis (Ex.62). After considering all factors including log market value of various species in 1944, cost of opening up, depreciation dn equipment, various logging and overhead costs, etc. he arrived at a stumpage value in 1944 of $4.30 (p.1031). The same witness earlier estimated Block 195 timber to have been worth between $4.00 to $5.00 /M (p.517).

At this point it might be well to explain that as one expert put it, "Practically every timber development except those carried on years ago from the shoreline, have capital investment with some approach roads." (p.1093 Schultz). Bearing in mind, therefore, that road building was of no consequence for either Block 195 or the Deep Bay Area, some sales which would appear at least comparable to those of the claimant are listed below:

COMPARABLE SALES

W. J. Allison, a well known logger, reported (p.367) a purchase early in 1944 from Charles McGargle of 16 million feet near Nanoose Bay, Vancouver Island for a lump sum which worked out to $4.93 per M. Schultz

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VANCOUVER CANADA 19

FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

COMPARABLE SALES AND DEEP BAY STUMPAGE TESTIMONY

who in fact had seen this timber testified that it was inferior to those of the claimant (p.521; p.1033). Mr. Allison, therefore, thought $4.00/M for the Deep Bay Area very reasonable (p.405).

Frederick B. Brown interests in 1944 sold a tract at Harrison Bay, B. C. for $2.75/M. Since it carried royalty, Mr. Brown said, "We would probably get $3.75 or $4.00 for it" if it was royalty free.

Charles N. Pretty, timber broker, told (p.623-627) the Commissioner about a contract between Almworth Company (Dollar interests) and H. R. MacMillan Company which had been negotiated in 1943. His calculations came to about $4.75/M that H. R. MacMillan Company paid. And the size of the timber was comparatively small. Mr. Pretty suggested at least $3.75/M cash for the Deep Bay Area's timber value in 1944.

Frederick B. Brown mentioned (p.568-9) making a purchase in 1945 from the Stekko family for Van West Logging Company, Royston, Vancouver Island. The price was on stumpage basis which he calculated to be around $4.75/M. This tract was about 11 miles from tidewater.

Reference is again made to the size of the timber tracts. One witness declared "The bigger the block you purchased, the more valuable it is." The claim was not based on the assumption that the large tract (at least 60 million feet) which adjoined the Deep Bay Property to the west was available at the time of the sale, although it actually was when the claimant left his

ONE DOLLAR PER M LOST

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FOR RETURN OF

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BOOM NO. AT LOADED TO

operations (p.40-42A;p.90-91; p.750-9, etc.). This is another instance where the claimant suffered from forced cessation of operations and evacuation as brought out by the following testimony by Mr. C. N. Pretty. ".....if I were buying a piece of timber to log and it had 40 to 50 million feet behind it, I would gladly pay another dollar a thousand for the timber...."(p.636).

FOREST SERVICE SALES

Extracts (Ex.24) from records of timber sales effected during 1943 and 1944 by the Forest Service in the Vancouver Forest District were produced in evidence. Most of these sales brought comparatively low prices because only small amounts of timber were involved, only the timber and not the land went with the sale. Competition usually did not exist because the volume interested only neighbouring operators, the logs were not exportable, the timber had to be cut in a limited time and royalty had to be paid (p.275 & 357 Byers). Notwithstanding all these adverse factors, a great many sales were made at prices in excess of $3.00 per M for the choice species. Since royalty of $1.22 had to be paid in addition, the cost to the operator was in excess of $4.22. The average bids (Ex.25 or p.334) received by the Forest Service were in fact as follows:-

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VANCOUVER CANADA 19

FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

	1943 Bid	1944 Bid
Fir	$ 2.76	$ 2.57
Cedar	2.95	2.95
Hemlock	1.48	1.58
Balsam	1.42	1.64
All species	2.17	2.41

Royalty usually amounts to about $1.00/M (p.331) hence the average cost to the operator was about $3.17 for 1943 and $3.41 for 1944. In view of the unfavourable aspects associated with these timber sales, as already described, one made the following testimony..."in my opinion(Gov. timber sale) is not comparable to stands of timber such as the Deep Bay Logging operation which should command a higher stumpage rate." (p.357 Byers, see also p.297). Therefore, it is suggested that $4.00/M or $4.50/M is not unreasonable for much more attractive timber limits, not forgetting that the exportable feature in itself provides an added value from 50¢ to $1.00 (p.570)."

MACMILLAN LOGGING CONTRACTS

Shortly after purchasing both Block 195 and Deep Bay Area, H. R. MacMillan Company sold the timber rights to private logging companies. The contracts were involved and were so drafted as to maintain certain advantages to the vendor (p.896-905; p.921-924). Consequently, it is impossible to make satisfactory evaluations. The contracts to quote the Commissioner "....impose an unusually heavy burden on the logger over and above what is normally a logging contract as I know it." Despite this, for both areas, their selling price was considerably in excess of the rate the claimant received.

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VANCOUVER CANADA 19

FOR RETURN OF

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BOOM NO. AT LOADED TO

In spite of the above evidence, the Commissioner has concluded that for Block 195 the fair stumpage value is $3.00/M and for the Deep Bay Area $2.50/M. The claimant feels that these values are very low and hardly fair in view of the evidence.

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VANCOUVER CANADA 19

FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

FELLED, BUCKED & COLD-DECKED TIMBER

STUMPAGE + OPERATING COSTS = VALUE

On this phase, the claimant finds the reasoning of the Commissioner acceptable, especially on the point that deterioration due to forced evacuation should not be a cause of loss to the owner. However, since the value of this timber is dependent on the price of the standing timber, an upward revision appears necessary on this account. Therefore, rather than this timber having the value of $5.00 per M which was based on the stumpage value of only $2.50/M (instead of $4.00), it should be revised to $6.50 per M.

REVISE
$5.00 to $6.50

As reported by the Commissioner, admittedly, the claimant overlooed introduction of comprehensive evidence to support certain contentions. Therefore, no mention will be made of indirect logging charges including workmen's compensation, camp overhead, profit and risk, depreciation, etc., which should be in part chargeable to falling ahd bucking or to the branch road construction, also chargeable to this wood, all of which increase the actual value by several dollars to bring it up to what was originally claimed. Nonetheless, the claimant wishes to add that it appears that compensation has not been granted for 700,000 board feet of logs (p.51-52 Kagetsu) which had been yarded, swung

$11.50
CONCEDED

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FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

COLD-DECKED LOGS

(relayed) and cold-decked, that is in a pile preparatory for loading. The claimant suggests at least an extra $3.50 per M on this account to the volume involved. Corroboration of this is found on Page 2 of exhibit 62 where Schultz's figures for 1944 indicate:-

COLD-DECK WORTH $3.50

Cold Decking	$ 1.50
Yarding (excluding loading) at least (Conservative)	1.50
Small faction of following charges:	
Fire Protection	
Workman's Compensation Insurance	
Camp Overhead	
Profit and Risk	
Depreciation	
...which aggregately comes to around $6/M.....very easily	.50
Extremely conservative estimate --	$3.50

Another approach is to consider the average price of logs in 1944 which was around $20.00/M. 700,000 board feet was at the stage of logging whereby the logs needed merely to be loaded on cars and hauled to the dump. That is to say, almost all the costly logging processes had been completed. Yet, the claimant is asking for only half of the ultimate value of these particular logs, namely $6.50 plus $3.50 or a total of $10.00/M.

To reiterate, the full amount of the original claim is not being asked for in this phase because certain evidence could have been more fully presented. So, the claimant feels the following very reasonable: -

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VANCOUVER CANADA 19

FOR RETURN OF

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BOOM NO. AT LOADED TO

	2,500 M b.f. @ 6.50	$16,250
plus	700 M b.f. @ $3.50	2,450
		$ 18,700

The Commissioner has recommended only $12,500 as the value of this particular 2½ million feet of wood which value the Claimant finds too low.

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VANCOUVER CANADA 19

FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

LOGGED OFF LANDS

General evidence was such that it was difficult to establish from what date operators had generally attached value to logged off lands. There is, however, the following evidence.

HAD VALUE BEFORE

Counsel asked, "Is immature timber such as that ever taken into account by a logging operator, when he is proposing to buy a stand of timber." Mr. C. Schultz's reply was, "I would say in the last five years, yes....and in the last five (i.e. from '43) there have been numerous exhhanges of crown granted young growth, and even bare logged lands that were purchased by concerns interest in logging B. C. operations." (p.1069).

The fact is that the claimant always attached considerable value to logged-off lands as attested by his having continued to pay taxes (ex.61 p.20) on all his logged off areas (p.54 Kagetsu).

SPECIAL VALUES

As to the specific value of this land which supported immature timber of various age-classes, the claimant has taken figures used in 1944 by the B. C. Forest Service. On the average, it is about $7.75 per acre, being in the aggregate $43,225.00 (Ex.61, p.20) for 5569 acres.

Mr. Smith reported (p.1168 also p. 1196) an instance where $10.00 per acre was paid by one logging interest. Therefore, in view of the

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VANCOUVER CANADA 19

FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

proximity to tide water and this being well represented by very old cuts which are now well restocked, it is the claimant's opinion that the awarded $1.50 per acre is much too low. Evidence was given (p.1168 Smith) that even government wild land cost $5.00 per acre.

In the vicinity of the camp about 35 acres had been cleared and most of it had been under cultivation (Ex.26 Clements). Mr. J. W. Clement, an agricultural consultant, attached a value of $25. per acre on this, which comes to $875.00 (not included in claim). It is suggested that apart from any commercial value, this cleared-off land had considerable value to the claimant whose operation was a going concern. This is mentioned merely to show that while the claim is for value of the land as potential forest, there were in fact other values as well.

ADDED VALUES

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FOR RETURN OF

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BOOM NO. AT LOADED TO

LOGGING RAILWAY

The claimant attaches a value of 50¢ per M on the railway that had existed. This is not, contrary to the Commissioner's understanding, on the premise that he would have increased his timber holdings but merely the value in taking out the Deep Bay timber then existing. It is felt that this is in fact conservative when one considers such remarks of Mr. Allison, a well known railway

50¢ PER M

logger of long standing, " Yes, railroad logging is usually supposed to be very economical." "When was that?" he was asked, to which he replied, "It is just prior to 1944." (p.367). Later, the Commissioner inquired, "How did you arrive at a figure of fifty cents a thousand (charges for use of five miles of a certain logging railroad), he replied "...we used ten cents a mile per thousand for the basis of figuring it." "And that figure was fixed arbitrarily?" "No, that was only our information of what it was worth, after we had made several investigations of what other people charged."(p.368).

The Deep Bay Property had 8½ miles of railroad which actually would figure to 85¢ per M so the claimant considers 50¢ per M very conservative.

There was further evidence (p.807) by Mr. E. Smith, crown witness, who considered 50¢/M reasonable had the railway continued in use.

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FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

This railway was in good condition at the time of the evacuation (p.33 Kagetsu, P. 559-60 Swanson). Even in 1943, Mr. E. Smith described it as being in "fair shape" (Ex.45 Sch.2, '45 report). And it is held with emphasis that the criterion should be what value this railroad had to the owner. In this connection it is mentioned that there is nothing in the evidence regarding the claimant's intention of converting to truck hauling. 50¢ per M times a volume of 56,520 M.b.f. or $28,260 is thought to be not unreasonable. However, even if it is held that the value to the purchaser should be the consideration, it can be argued that being awarded $1000 for 4½ miles of road actually used, less than $225 per mile of road, not to mention the value of bridges, is far too low. Most experts agreed that old railroad grades had some value as truck roads, but divergent opinions were held. Some considered for those parts that were used, that hardly any change was needed, others thought widening was necessary. Be that as it may, from various evidence (p.1164) it is indicated that a mile of surfaced road would cost from $6,000 - $10,000 a mile in that area. Mr. Smith said, "It would depend on how much surface work had to be done. The break through could be done probably for $4,000 but heavy loads are on the big trucks and

$225 PER MILE TOO LOW

EASILY WORTH $2600 PER MILE

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you have to surface it."(p.1164). Even if widening was necessary, then one mile of the railway grade would surely be worth $2,600a mile as adduced in exhibit 62. Hence four miles would have effected a saving of at least$11,700 to the operator for which sum the claimant should be compensated.

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S U M M A R Y

This brief deals only with items 1,2 and 3 as enumerated by the Commissioner. Item 4 is such that the claimant has no right to further discussion. Items 5 and 6 are to be later disposed of between counsel.

ITEM I
BLOCK 195

As to item 1, sale of Block 195, in the claimant 's opinion the fair market value is:

55 million board feet @ $4.50/M which equals $247,500.--

This was sold for $93,000, so the claim is:

$247,500 minus $93,000 which equals ($154,500.00)

111,000
93,000
18,000

The Commissioner concluded the value to be only $111,000 (37 million board feet @ $3.00/M) thereby recommending compensation of a mere $18,000.00 which in the light of the evidence would appear far too low.

ITEM II
DEEP BAY
PROPERTY

Item 2 is the Deep Bay Property. The values considered reasonable are as follows:

Please see next page.

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	54 million feet standing timber (excluding felled and bucked wood) @ $4.00/M		$216,000.00
ITEM II	2½ million board feet felled and bucked @ $6.50	$16,250	
DEEP BAY	Add 700,000 board feet @$3.50 for wood cold-decked	2,450	18,700.00
PROPERTY	5,569 acres of logged off lands		43,225.00
			$277,925.00

The value of felled and bucked wood is a reduction from the claim submitted.

Item 2 was sold in the aggregate at $40,000.

Hence, a claim is being made for

$277,925.00 minus $40,000.00

which equals $237,925.00

The sale of item 2 included booming grounds,

foreshore lease, dumping pier, 40 buildings, etc.

and of course, included in all over 7,000 acres

of land. The Commissioner recommended the following:

17 million board feet minus 14 million for which volume property was sold, or 3 million shortage @$2.50 which equals		$ 7,500.00
Value of 2½ million feet of felled and bucked wood @ $5.00 equals	$12,500.00	
Minus value allotted by appraiser	4,500.00	8,000.00
Logged-off Lands 5,500 acres @ $1.50		8,250.00
40 Camp Buildings		1,000.00
WHICH goes without saying is unreasonably LOW.		$24,750.00

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FOR RETURN OF

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BOOM NO. AT LOADED TO

ITEM III

DEEP BAY RAILWAY

Item 3 deals with the logging railway. The Commissioner has misinterpreted aspects of the railway pertaining to condition and conversion to truck hauling. It was definitely the claimant's intention to continue the use of his railway which at the time of evacuation was in good condition.

The claim is based on the hauling of the timber of the Deep Bay Property only, and no other timber, and the calculations are:-

56,520 M board feet @ 50¢/M
which is $28,260.00

Subsequent to the Japanese evacuation, the railway was scrapped and the purchasers of the Deep Bay Property received the road-bed without payment so the claim is the full $28,260.00.

The Commissioner awarded only $1,000.

If it is ruled that the value of the railway to the purchaser and not to the claimant is the criterion, then the claim reduces to 4½ miles @ $2600./mile which is $11,700.00.

$421,000 VS ONLY $44,000

Collectively then, the claim for the three items is as follows:

Item 1	$ 154,500.00
Item 2	237,925.00
Item 3	28,260.00
TOTAL	$ 420,685.00

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The Commissioner has awarded for:

Item 1	$ 18,000.00
Item 2	24,750.00
Item 3	1,000.00
TOTAL	$ 43,750.00

This brief has attempted to indicate that the evidence definitely substantiates this claim, and that the compensation awarded is unjustly small.

All of it is submitted with the greatest respect to the Commissioner and to all readers.

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A P P E N D I X A

COMMISSIONER BIRD'S REPORT

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A P P E N D I X B

BLOCK 195 and DEEP BAY AREA TIMBER VOLUMES

by SPECIES EXPRESSED IN PERCENTAGE

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BOOM NO. AT LOADED TO

A P P E N D I X B

BREAKDOWN BY SPECIES OF TIMBER VOLUME ON BLOCK 195

AND DEEP BAY PROPERTY IN PERCENT OF TOTAL

	Percent within Fir Species									
	No. 1	No. 2	No. 3	Total	Fir	Cedar	Hemlock	Balsam	Others	Total
BLOCK 195 (& BK. 403)										
Actual Cut to June 1950	11	63	26	100	38	12	30	17	3	100
Schultz Cruise (Ex. 15)					40	12	33	14	1	100
Smith (Bk.195) (Ex. 36)					59	11	21	7	2	100
Smith (Bk. 403) (P.795)					44	9	28	16	3	100
Sheehan (Bk.195) (Ex. 5)					62	14	17	6	1	100
DEEP BAY PROPERTY										
Actual Cut to June 1950	9	62	29	100	53	21	16	8	2	100
Schultz Cruise - Standing timber only at Nov. 1948 (Ex. 61)					33	13	42	8	4	100
Smith (Ex. 45)					74	12	10		4	100

N. B. Hemlock and Balsam on Block 195 is 28 percent as compared with 44 percent on Block 403. Schultz's percentages are of little value for the Deep Bay Property because it represents only the timber standing on Nov. 1948.

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BOOM NO. AT LOADED TO

APPENDIX C

ACTUAL CUT BLOCK 195 TO

JUNE 1950

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FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

CABLE ADDRESS
"USTEGAK"

OFFICE ORCHARD 7571
EVENINGS REDFERN 6801

PACIFIC TRADING CO.

IMPORTERS AND EXPORTERS

REPRESENTED BY

1558 EGLINTON AVE. WEST
TORONTO, CANADA

Senator
Roebuck
Lawyer
J M Friedman
414 Bay
EM 4-3543

TIMBER SCALED FOR TABLE RIVER LOGGING Co

UNDER TIMBER MARK 2K9 IN F.B.M.
(EXHIBIT 22 FIGURES BROUGHT UP TO DATE)

	MAR-NOV 1946	JAN-DEC 1947	JAN-DEC 1948	JAN-DEC 1949	JAN-JUNE 1950	TOTALS	PER CENT TOTAL
FIR							
#1	113 489	325 136	384 142	258 508	53 564	1 136 839	4.8
#2	1 308 632	1 532 655	2 425 007	1 902 743	579 892	7 748 929	32.8
#3	611 103	407 424	1 179 066	1 157 388	310 656	3 665 637	15.5
TOTAL	2 033 224	2 265 216	3 988 215	3 318 639	946 112	12 551 405	53.1
CEDAR							
#1	72 518	144 809	12 861	41 193	—	271 381	1.1
#2	573 992	1 050 391	354 546	358 039	18 237	2 355 205	10.0
#3	455 187	667 435	646 138	518 246	81 572	2 368 578	10.0
TOTAL	1 101 697	1 862 635	1 013 545	917 478	99 809	4 995 164	21.1
HEMLOCK							
#1	22 198	63 865	51 030	51 358	—	188 451	0.8
#2	149 241	625 703	177 038	166 872	456	1 119 310	4.7
#3	400 528	876 093	392 231	719 365	10 995	2 399 212	10.2
TOTAL	571 967	1 565 661	620 299	937 595	11 451	3 706 973	15.7
BALSAM TOTAL	397 974	617 655	300 097	463 971	1 304	1 780 801	7.6
CYPRESS							
C #1			1 985			1 985	0.1
#2		31 274	33 444	10 405		75 123	0.3
#3	8 727	80 387	97 751	66 600	59	253 524	1.0
TOTAL	8 727	111 661	133 180	77 005	059	330 632	1.4
PINE							
#1			—	1 322	—	1 322	0.0
#2	619	9 949	19 749	49 358	268	79 943	0.3
#3	22 941	26 519	26 715	40 363	627	117 165	0.5
TOTAL	23 560	36 468	46 464	91 043	895	198 430	0.8
TOTAL OTHERS	10 094	—	12 886	46 969	10 742	80 691	0.3
GRAND TOTAL	4 147 043	6 459 295	6 114 686	5 852 700	1 070 372	23 644 096	100

6 459 295
6 114 686
5 852 700
1 070 372
23 644 096

SPECIES

9.1
61.6
29.3
100.0

5.4
47.2
47.4
100.0

5.1
30.2
64.7
100.0

IMMATERIAL

TIMBER SCALED FOR STOLTZE LOGGING CO. LTD

UNDER TIMBER MARK 1C6
(EXHIBIT 23 BROUGHT UP TO DATE)

	FEB-DEC 1944	JAN-DEC 1945	JAN-DEC 1946	JAN-DEC 1947	JAN-SEPT 1948	JAN-DEC 1949	JAN-JUNE 1950	TOTALS	PERCENT OF TOTAL	WITHIN SPECIES
FIR #1	81 251	553 026	776 770	604 130	487 731	309 818	69 101	2 881 827	4.1	10.7
#2	3 393 636	2 887 834	2 939 085	2 900 708	1 527 454	2 440 392	959 357	17 048 466	24.3	63.1
#3	1 407 226	920 978	1 101 860	1 439 071	661 001	989 182	532 095	7 051 413	10.0	26.2
TOTAL	4 882 113	4 361 838	4 817 715	4 943 909	2 676 186	3 739 392	1 560 553	26 981 706	38.4	100
CEDAR #1	6 012	77 362	281 007	173 725	15 457	31 915	3 085	488 563	0.7	5.7
#2	210 843	715 637	1 650 139	1 022 661	343 545	218 942	61 753	4 323 520	6.2	50.6
#3	468 019	480 726	1 008 924	892 132	304 881	374 696	198 919	3 728 297	5.3	43.7
TOTAL	684 874	1 273 725	2 940 070	2 088 518	663 883	625 553	263 757	8 540 380	12.2	100
HEMLOCK #1			173 344	171 198	54 750	61 937	10 365	471 594	0.7	
#2			703 714	1 015 573	481 292	670 097	139 447	3 010 123	4.3	
#3			1 777 399					1 777 399	2.5	
UNGRADED	3 448 950	2 242 028	1 073 982	3 766 046	1 879 727	2 669 271	595 911	15 675 915	22.3	
TOTAL	3 448 950	2 242 028	3 728 439	4 952 817	2 415 769	3 401 305	745 723	20 935 031	29.8	
BALSAM TOTAL	32 786	569 580	4 079 933	4 391 897	1 753 153	743 363	10 698	11 581 410	16.5	
CYPRESS #1		—	11 316	54 797	20 827	7 007	—	93 947	0.1	
#2		1 976	61 318	240 054	69 843	9 511	2 361	385 063	0.6	
#3		3 243	57 369	316 423	84 798	11 082	2 388	475 303	0.7	
TOTAL		5 219	130 003	611 274	175 468	27 600	4 749	954 313	1.4	
PINE #1	1 238	6 318	2 194	—	4 461	3 988	—	18 199	0.0	
#2	124 639	118 971	47 610	10 282	30 206	78 315	31 801	441 824	0.6	
#3	67 525	59 112	23 862	10 157	18 701	52 741	22 600	254 698	0.4	
UNGRADED			110 750	223 577			—	334 327	0.5	
TOTAL	193 402	184 401	184 416	244 016	53 368	135 044	54 401	1 049 048	1.5	
OTHERS TOTAL	2 483	—	—	—	19 770	109 006	2 184	133 443	0.2	

75% UNGRADED

1 MMATER 18 L

TOTAL	4 882 113	4 361 838	4 817 715	4 943 909	2 676 186	3 739 392	1 560 553		26 981 706	38.4	100
CEDAR #1	6 012	77 362	281 007	173 725	15 457	31 915	3 085		488 563	0.7	5.7
#2	210 843	715 637	1 650 139	1 022 661	343 545	218 942	61 753		4 323 520	6.2	50.6
#3	468 019	480 726	1 008 924	892 132	304 881	374 696	198 919		3 728 297	5.3	43.7
TOTAL	684 874	1 273 725	2 940 070	2 088 518	663 883	625 553	263 757		8 540 380	12.2	100
HEMLOCK #1			173 344	171 198	54 750	61 937	10 365		471 594	0.7	
#2			703 714	1 015 573	481 292	670 097	139 447		3 010 123	4.3	
#3			1 777 399						1 777 399	2.5	
UNGRADED	3 448 950	2 242 028	1 073 982	3 766 046	1 879 727	2 669 271	595 911		15 675 915	22.3	
TOTAL	3 448 950	2 242 028	3 728 439	4 952 817	2 415 769	3 401 305	745 723		20 935 031	29.8	
BALSAM TOTAL	32 786	569 580	4 079 933	4 391 897	1 753 153	743 363	10 698		11 581 410	16.5	
CYPRESS #1		—	11 316	54 797	20 827	7 007	—		93 947	0.1	
#2		1 976	61 318	240 054	69 843	9 511	2 361		385 063	0.6	
#3		3 243	57 369	316 423	84 798	11 082	2 388		475 303	0.7	
TOTAL		5 219	130 003	611 274	175 468	27 600	4 749		954 313	1.4	
PINE #1	1 238	6 318	2 194	—	4 461	3 988	—		18 199	0.0	
#2	124 639	118 971	47 610	10 282	30 206	78 315	31 801		441 824	0.6	
#3	67 525	59 112	23 862	10 157	18 701	52 741	22 600		254 698	0.4	
UNGRADED			110 750	223 577			—		334 327	0.5	
TOTAL	193 402	184 401	184 416	244 016	53 368	135 044	54 401		1 049 048	1.5	
OTHERS TOTAL	2 483	—	—	—	19 770	109 006	2 184		133 443	0.2	
GRAND TOTAL	9 244 608	8 636 791	15 880 576	17 232 431	7 757 597	8 781 263	2 642 065		70 175 331	100%	

75% UNGRADED

1 MMATER 18 L

N.B. OCT, NOV. & DEC FIGURES FOR 1948 TO BE ADDED TO ABOVE

A P P E N D I X D

ACTUAL CUT DEEP BAY AREA TO

JUNE 1950

KAGETSU & CO., LTD.

TIMBER EXPORTERS

VANCOUVER CANADA 19

FOR RETURN OF

VESSEL CERTIFICATE NO. MARKS

BOOM NO. AT LOADED TO

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