Vancouver, B. C.

November 14th, 1949. 10.30.

CASE NUMBER 1388

IN THE MATTER OF THE CLAIM OF

DEEP BAY LOGGING COMPANY

PROCEEDINGS AT HEARING

APPEARANCES:

D.T.B.BRAIDWOOD, Esq., and J. C. CAMPBELL, Esq., appearing for the Dominion Government.

A. BALDWIN, Esq., appearing for the Claimant.

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MISS WHITE, Secretary

D. F. SAUNDERS, Esq., Official Reporter.

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MR. BRAIDWOOD: My lord, this matter was fixed for call for hearing today. My learned friend, Mr. Baldwin, has an application to make in Court.

THE COMMISSIONER: Yes.

MR. BALDWIN: First, Mr. Norris wishes me to apologize for him for being unable to appear this morning . He would have liked to have been here today. The Chief Justice had a preemptory matter before him. I realize your lordship is anxious to get this thing finished and appreciating that as we do, we hesitate again to ask for an adjournment. My learned friend has been good enough to agree to it. We have one witness who

is not available,

THE COMMISSIONER: Why not?

MR. BADDWIN: He is out of town, my lord.

THE COMMISSIONER: It is time, Mr. Baldwin, tha t these people arrange their affairs sotthat they are here. I have done my utmost to accommodate Mr. Norris and I may say the time has come when there will be no more accommodation. I cannot run this Commission to suit the convenience of one claimant.

MR. BALDWIN: We appreciate that, my lord, and we appreciate the courtesy your lordship has already shown. A short adjournment would be of help to us.

THE COURT: How short. Can you make it tomorrow?

MR. BALDWIN: No, my lord. My learned friend and I have suggested mutually, if convenient to your lordship, as we understand your lordship's engagements, the 5th of December.

THE COMMISSIONER: That is going a little too long. Why cannot you get on this week? You see, I would like you to understand that I have in addition to this claim probably four hundred or five hundred others, also unfortunately, I am going to have to assume judicial duties during the latter part of this month, commencing with the 21st.

MR. BALDWIN: I appreciate that, my lord.

THE COMMISSIONER: Now, I have set the end of the year to wind up the Commission. I have been at it two years now. It is most inconvenient to have applications for adjournment in circumstances such as this one.

Is there any reason why you should not get on either Tuesday or Wednesday of this week and let us get it finished?

MR. BALDWIN: My lord, merely that the witness we wanted -- we just won't be able to get him.

THE COMMISSIONER: Who is that, Schultz?

MR. BALDWIN: No, my lord, although Mr. Schultz is holding himself in readiness. No, this is a witness who will be proving part of Mr. Schultz' report. Your lordship I understand, begins with the Court of Appeal on November 21st. Mr. Norris is engaged in a preemptory matter at the moment, an injunction and on the 28th has a case before your lordship in the Court of Appeal and it should be finished that week.

THE COMMISSIONER: There is no possibility of my touching anything in connection with the Commission after the 21st until the end of the month. I have held three days open for you, having already given Mr. Norris one adjournment. Now, I feel very unhappy about this. It appears to me that no consideration is being shown to the Commission at all. This witness surely could have arranged to be here after four months of waiting to bring this argument on.

MR. BALDWIN: I apologize, my lord. We should have had him available, but I did not think it was necessary to subpoena him and he is not here.

THE COMMISSIONER: Could you not get a subpoena and get him here say, on Wednesday?

MR. BALDWIN: As I understand it my lord, he is out of town. He is in Seattle. There is a logging convention

there, my lord, which makes things difficult.

THE COURT: Why not get on with Schultz this week and dispose of that much, if he is available.

MR. BALDWIN: We could do that. I don't think it would save very much in the end.

THE COMMISSIONER: I would like to get some of it done. There are three days set aside this week and the balance of the week could be made available by other matters being put aside.

MR. BRAIDWOOD: Yes, that is true my lord, if your lordship so directs.

THE COURT: Would it be more convenient for you to stand Schultz over until Wednesday rather than tomorrow.

MR. BALDWIN: Yes, it would.

THE COMMISSIONER: Than I will grant your adjournment and you can go on then.

What is the evidence that this man in Seattle can give?

MR. BALDWIN: The evidence that he will be giving, my lord, is substantiation of this part of the claim or this part of the report which refers to the value of the logged areas -- the reproduction matter.

THE COMMISSIONER: Have you examined that report, Mr. Braidwood?

MR. BRAIDWOOD: Oh yes, my lord, we have examined the report, and I will be ready to cross-examine on that phase.

THE COMMISSIONER: Is that a matter that Schultz knows anything about?

MR. BALDWIN: I didn't hear your lordship.

THE COMMISSIONER: Is that a matter about which Schultz knows anything?

MR. BALDWIN: I don't think he knows very much about it. All he has in the report to substantiate it, is a letter from the Forest Branch and I think it better to call someone from the Forest Branch to examine on that point and to lead the evidence. There is a letter from the Forest Branch.

THE COMMISSIONER: Of what nature is it?

MR. BALDWIN: It is a letter my lord, from the Forest Branch setting out the value of the second growth according to the age of the stand.

THE COMMISSIONER: Yes.

MR. BALDWIN: And it is signed by Mr. McKinnon in Victoria. I thought it would be better to call someone from the Branch to give the evidence.

THE COMMISSIONER: Could you not call McKinnon?

MR. BALDWIN: Well, he is in Victoria. I can. I had not planned to.

THE COMMISSIONER: McKinnon in lieu of this man in Seattle. Would that serve the same purpose?

MR. BALDWIN: It would, my lord, yes. He has to come from Victoria. That is the only thing.

THE COMMISSIONER: But if he could be here then we could go on.

MR. BALDWIN: Yes.

THE COMMISSIONER: And complete your evidence and proceed with the argument?

MR. BALDWIN: Yes, my lord.

THE COMMISSIONER: You see I am in this difficulty, that if, as a result of this adjournment, the Commission is going

into the New Year, it is going to make it particularly embarrassing for me because the Chief Justice is committed to the Workmens' Compensation Inquiry, and it is imperative I assume my court duties. Under the circumstances I will direct you to have this man from Victoria here by either Wednesday or Thursday, whichever suits your convenience and we will go on with Schultz on Wednesday. How would that suit you, Mr. Braidwood?

MR.BRAIDWOOD: I think I should put all the facts before the court. As your lordship will recall, originally the adjournment was given to allow our learned friend time to file Schultz' report before your lordship and it was directed by your lordship that the Crown should not be prejudiced by the filing of this report after the Crown had put in its basic case. And while this letter from the Forestry Service Branch has become part of the Schultz report I do have to tell the court as far as the letter is concerned, that I would like an opportunity to cross examine upon it. And I myself will tell the court that I am planning on calling rebuttal evidence with regard to this letter. Of course, if your lordship directs it to be heard this week I am in the Commission's hands, and am quite prepared to go ahead with this matter.

THE COMMISSIONER: It would not cause you any embarrassment to go on, commencing Wednesday?

MR. BRAIDWOOD: If your lordship can give me a moment to speak to my witness, who is also a timber cruiser -- that will be quite satisfactory; my witness will be available at that time, your lordship.

THE COMMISSIONER: You would prefer not to start until Wednesday?

MR. BALDWIN: I would, yes, my lord.

THE COMMISSIONER: Very well, we will adjourn until ten o'clock on Wednesday, and I will expect counsel to proceed then and you can have your Victoria man in at any time convenient to you. Maybe I will sit on Saturday to get this matter disposed of.

(PROCEEDINGS ADJOURNED UNTIL NOVEMBER 16th, 1949)

I hereby certify the foregoing be a true and accurate report of the said proceedings.

D. F. Saunders
Deputy Official Stenographer

CASE NO.1388

IN THE MATTER OF THE "INQUIRIES ACT"

PART 1, REVISED STATUTES OF CANADA, 1927, CHAPTER 99

JAPANESE PROPERTY CLAIMS COMMISSION

B E F O R E

THE HONOURABLE MR. JUSTICE H. I. BIRD, COMMISSIONER.

Vancouver, B. C.,

November 16th, 1949.

IN THE MATTER OF THE CLAIM OF

DEEP BAY LOGGING COMPANY
Kagetsu, Eikichi

PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT

APPEARANCES:

D. T. BRAIDWOOD, ESQ., and J. C. CAMPBELL, ESQ.	appearing for the Dominion Government.
A. BALDWIN, ESQ.	appearing for the Claimant.
MISS WHITE	Secretary.
MRS. E. BLYGH	Official Reporter.

THE COMMISSIONER: Yes, proceed.

MR. BRAIDWOOD: My lord, you will recall, on Monday of this week, your lordship saw fit to adjourn the present case until today, and my friend proposes to proceed today and call, I understand, Mr. Schultz, on his Forest Inventory which was arranged some time ago between counsel and your lordship that that should be done.

You will recall, my lord, on Monday, my friend took the position that a certain witness was unavilable to prove a letter that was in this Forest Inventory Report, and which has been given a tentative number of 61, as an Exhibit, but which has not been marked as yet, but if I may refer to it as 61.

THE COMMISSIONER: Very well.

MR. BRAIDWOOD: Upon consideration of this letter with my friends, Mr. McPherson, Mr. Shears and Mr. Wray, following the hearing on Monday, I was forced in the position on behalf of the Crown that I must object to this part of the Forest Inventory Report going in, my lord, and if that is the case, and my objection is sustained, then there would be no point in calling the witness, Mr. McKinnon, from Victoria, whom your lordship directed my friend should call, in order to prove this inventory of the Forest Branch; and I am making this objection now, so if it is made now, it will give my friend an opportunity to hold Mr. McKinnon back, and not have him spend the time and expense coming across the water to give evidence before the Commission,

if your lordship rules that this evidence is not admissible.

THE COMMISSIONER: Perhaps I had better see the letter.

MR. BRAIDWOOD: It is contained in the Report, my lord.

THE COMMISSIONER: Have I a copy of it?

MR. BALDWIN: A copy of the Report was filed in July.

THE COMMISSIONER: Have you a copy of the report there?

MR. BRAIDWOOD: No, I have your copy, my lord. Unfortunately my friend had not another copy, and I had to use your lordship's copy. As a matter of fact, I never received a copy, and I checked with Mr. Shears' office, and I find Mr. McPherson has never received one.

MR. BALDWIN: One was filed in July, with the Commission.

THE COMMISSIONER: I recall a copy coming to me, but I have not looked at it yet. I will just read this through, to see what this is all about, Mr. Braidwood.

You had better explain, first, what is the basis of your objection.

MR. BRAIDWOOD: Yes, my lord. My objection is taken to this throughout the conduct of the Hearing--there was considerable difficulty expressed--both on behalf of Crown counsel, and also by your lordship, to determine what, exactly, was the basis of the claiman't claim. There was a great deal of confusion about it.

Your lordship will recall an original cruise was put in by the Schultz people, and athat this did not seem to be satisfactory, and that there was

discussion between my friend, Mr. Baldwin--

THE COMMISSIONER: Unsatisfactory for what reason? You see, I have not thought of this matter for six months or more, and I do not keep all these claims in my mind.

MR. BALDWIN: I don't like to interrupt my friend, but it might be more convenient to say the original was not a cruise, but we wanted to get as much information before your lordship as possible. It was a reconnaisance.

THE COMMISSIONER: Yes, the understanding was that he had not completed his cruise, and proposed to do so during the summer.

MR. BRAIDWOOD: Yes, and at first there was a space of 2 or 3 weeks--and then it was put off--and your lordship granted special permission to my learned friend to break his case, and to allow this evidence to go in at a later date; and I am submitting that evidence should come in only under certain conditions. And that will be the basis of my objection.

Now, I might say my friend finally went ahead and had a preliminary examination by Mr. Schultz so that Mr. McPherson might cross-examine him. Mr. McPherson suggested, in his remarks to your lordship, he would not be available past the end of the year, and in order to facilitate matters, for Mr. Hunter or myself, who would probably succeed him, he should cross-examine him, to get as much done as possible before he left the case. And

following this cruise coming in, then Mr. McPherson went ahead and produced his evidence.

Now, my submission is, on behalf of the Crown, at all times it was understood between counsel, and between counsel and your lordship, that any privilege given to my friend to introduce this further evidence was merely a privilege given as to a matter of quantity, so it might be determined as to whether or not the claim was a valid one, and indeed it might be determined whether a claim arose as to quantity.

Now, I have taken the instructions of my friend, Mr. McPherson, in this matter, and Mr. Shears, and they are of the same opinion; and whilst Mr. McPherson is not able to be here today, those are the instructions I have obtained from him.

THE COMMISSIONER: How does this proposed letter change the situation?

MR. BRAIDWOOD: This is a letter as to value.

THE COMMISSIONER: Well, wait a moment--value in what terms, because it deals with immature timber.

MR. BRAIDWOOD: Yes, it deals with immature timber, and it is submitted, on behalf of the Crown, the only privilege my friend was given was to call Mr. Schultz on a matter of quantity, and to call Mr. Schultz alone.

THE COMMISSIONER: Is there anything in the text?

MR. BRAIDWOOD: My first position is taken on the understanding--and Mr. McPherson assures me there were some private discussions, of which I have no personal

knowledge, but I did advise my friend on Monday of the Crown's position, and again on Tuesday, and I wrote my friend as follows:

"Dear Sirs: "Deep Bay Logging Company"

Further to my letter of 14th November, re the Crown's objection to the calling of a witness on values, I would point out that I have discussed this matter with Mr. McPherson, Mr. Shears, and Mr. Wray, who were all participants on behalf of the Crown at the Hearing. In all cases, their understanding was that the claimant was permitted the unusual privilege of breaking his case solely for the purpose of having Mr. Schultz prove where his quantities came from; and that this was to be done by the filing of the cruise, which is to be Exhibit 61. This was apparently concurred in by claimant's counsel, and I beg to point out the following extracts from the evidence at page 64:

MR. BALDWIN: That concludes the claimant's case, my lord, with the exception of recalling Mr. Schultz.

THE COMMISSIONER: Yes.

MR. McPHERSON: I wonder can I assume that there will be no further witnesses on behalf of the claimant, other than Mr. Schultz?

THE COMMISSIONER: That is the understanding.

MR. BALDWIN: In that connection, my lord, I would say that if the Government adduces

evidence as my learned friend has intimated he will, that all this land that was boxed in that Deep Bay area, the claimants reserves its right as your witness, my lord, to rebut that evidence, if necessary.

THE COMMISSIONER: Yes. Your case, in chief, is finished, with the exception of Mr. Schultz?

MR. BALDWIN: That is correct."

"Of course the claimant is entitled to proper rebuttal evidence, but the position taken by the Crown is that the matter mentioned the Crown laid no evidence, and therefore there can be no rebuttal.

In addition to the above, as I understand, there were discussions between counsel and the judge to the above effect, but I, of course, was not present at these."

Now, I submit that the position taken by my friend at that time, and I also submit that now we are faced with a letter from a third party, incorporated in a quantity report, and this letter has entirely to do with value. And I say if my friend had intended to adduce evidence of value, it should have been done at that time, and not before he closed the case, when I submit he was only allowed to give you evidence of quantity.

Now, there is one other aspect to be considered, and that is whether this evidence would constitute proper rebuttal evidence, and I would say on that basis, since the Crown produced no evidence of immature timber, the letter cannot be qualified on

that basis.

THE COMMISSIONER: Yes, Mr. Baldwin?

MR. BALDWIN: Dealing with my friend's last point first; we are not attempting to rebut any evidence at all in this matter. When I received my friend's first letter in this matter, I went over--he said in that letter that he had consulted with Mr. McPherson, and he had also checked over the transcript, and had arrived at his conclusion in regard to the introduction of this letter on the basis of looking over the transcript, and a discussion with Mr. McPherson.

Now, I have gone very carefully through the transcript, my lord, and I went through it very carefully because it was not my recollection that Mr. Schultz's evidence would be restricted in any way, that it would be merely quantity.

I think it will appear in the transcript that his evidence was given--that is, all the evidence that Mr. Schultz gave was restricted to Block 195, and as my friend has said this morning, I did call Mr. Schultz very briefly, in order that Commission counsel should be accommodated in the cross-examination of Mr.Schultz on the Deep Bay limits.

THE COMMISSIONER: On the contrary, the accommodation was one that was extended to you. You were not ready, and I granted you that accommodation in order to permit you to get ready.

MR. BALDWIN: I am not referring to the adjournment, my

lord. I am referring to the fact Mr. Schultz was called on Deep Bay earlier.

THE COMMISSIONER: That was the ground on which you were granted the concession. Under normal circumstances, the plaintiff would have gone on with his case to the conclusion, but he was not ready, and in order to obviate a lengthy adjournment, Government counsel were permitted to cross-examine him on certain features of his evidence.

MR. BALDWIN: As your lordship says, at that time we were not ready, and Commission counsel intimated they might find it necessary to make a cruise, themselves, of the area. And my friend refers to discussions between your lordship and myself and Mr. McPherson, and quite frankly, I do not recall any such restriction in those discussions.

It may be that in the course of a year passing, I cannot recall everything that was said, and your lordship may be able to assist me in that matter.

THE COMMISSIONER: Well, it is too long ago for me to retain much of one case in my mind, when I have been dealing with so many of them. I think you had better confine yourself to the exchange of correspondence, or discussions that took place between yourself, Mr. McPherson and myself, and at page 654 of the transcript, you will find a reference. My understanding is that you are now seeking to call another witness in addition to Schultz?

MR. BALDWIN: Yes, my lord. When my friend first contacted me in regard to this objection, he proposed

to take, I might say I went over the evidence quite carefully, and I have since discussed with my friend the pages in the transcript that has reference to this matter, which may be helpful to your lordship.

Page 153, my lord.

Briefly, my lord, my position is this: this witness is being called in the normal course of events, and if there is nothing to the contrary, he should be heard on all the points that he has knowledge of.

THE COMMISSIONER: Well, how can you put forward that argument, in face of the exchange which took place on page 654, and you stated you had only one witness and that was Mr. Schultz?

MR. BALDWIN: There are really two points to my learned friend's objection. He says, first of all, Schultz cannot give evidence of value, and secondly, he says in this letter--

THE COMMISSIONER: He has not supported his argument as to any limitation on what evidence Schultz can give.

MR. BALDWIN: If your lordship rules so on that, we need not go on any further.

MR. BRAIDWOOD: I would like to be heard on that.

THE COMMISSIONER: You did not exhaust your argument?

MR. BRAIDWOOD: I think I did say the adjournment was to allow Schultz to file his cruise.

THE COMMISSIONER: Yes, but you have cited to me at page 654 what appears to be an understanding on which the adjournment was granted. Now, do you also say that

Schultz was limited to the evidence which he was permitted to give?

MR. BRAIDWOOD: Yes, my lord.

THE COMMISSIONER: How do you support it?

MR. BRAIDWOOD: On the two grounds, my lord, the adjournment was given for Schultz to file his cruise, and the cruise is, of necessity, a quantative matter. That is my first point--if your lordship rules against me.

THE COMMISSIONER: Have you anything to support it in the transcript?

MR. BRAIDWOOD: No, except the adjournment was for a cruise, and your lordship would take note that that is a quantative matter.

I might say my friend had this man Schultz in the witness box before, and if he wanted to find out values from him, he is a man of some knowledge of timber in British Columbia, and surely he could have established, at that time, the values of good timber.

THE COMMISSIONER: Was the question of value discussed in Mr. Schultz's evidence at all?

MR. BRAIDWOOD: I cannot find any trace of it at all. It is 3 or 4 days since I have been over it, but I say, if he wants to establish the question of value, he must do it in chief; and in view of your lordship's new ruling, he should come in and say there are so many feet of fir, and relate that back to the evidence given in chief, when the Crown had an opportunity to put in its case.

MR. BALDWIN: Well, your lordship having heard quite a

few of these logging cases, will appreciate that the question of volume on an area is inextricably tied up with value, and we did not understand that we were to be restricted to quantity.

THE COMMISSIONER: Well, this is another difficulty that has arisen out of your failure to proceed with the presentation of your case as should have been done earlier. However, I will hear you further. Do not assume I am holding anything against you. On your first presentation, I did not realize he had any other point except the introduction of this one witness from Victoria.

MR. BALDWIN: Well, I think the pages cited by my friend quite clearly states that our case is finished, with the exception of Mr. Schultz. That is correct. There has been nothing to the contrary.

THE COMMISSIONER: Well then, do you concede, by virtue of what was said at page 654, you are entitled to call Schultz, and Schultz only?

MR. BALDWIN: Well, I was going to go on with that, and say that this information that is contained in Mr. Schultz's report, it is one of the many sources from which he made up his report in the nature of the compilation of such a report. Certain statistics are referred to in that report. This was another example of that, and I thought it might be more satisfactory to your lordship to call in this case, which we could, the source of the information, so that your lordship would have it vive voce, and my friend would have the right of

cross-examination.

THE COMMISSIONER: Subject to what you have to say, it does appear from page 654 you have bound yourself to take this adjournment on the conditions outlined on page 654, namely that your case is finished, with the exception of Mr. Schultz. Now, are you asking anything further?

MR. BALDWIN: Well, I can put the evidence in through Schultz, but, as I said, I thought it would be more satisfactory to your lordship, in this case, to have the original source of evidence here.

The point I am trying to make, in a report such as this, some of the information must necessarily come from Tables, and that sort of thing, and this information--this letter is of a type which, of its nature, is susceptible of bringing before your lordship the original source of the evidence, and it is really a part of the Schultz Report. It is not independent evidence. It is part of Mr. Schultz's evidence.

THE COMMISSIONER: Well, my disposition is to hold you to the understanding set out in page 654. Have you anything to say to the contrary? We will deal with the other question of value, when we have to meet it. I am not holding against you, but I am just pointing it out to you that you have bound yourself, at page 654, to call Schultz and no one else.

MR. BALDWIN: That is correct. We did say that there, but my present submission to your lordship is that

this is really part of Schultz's evidence, and it was, in some instances, in the nature of data, and statistics, and it is not possible to bring the evidence before your lordship in any other way. It is not part of Schultz's cruise. It is part of his valuator. I shouldn't say Schultz's cruise, but Schultz's Forest Inventory, which is different to a cruise.

THE COMMISSIONER: Do you say that the understanding on which you were granted the adjournment is set out on page 654?

MR. BALDWIN: If your lordship will permit me a few minutes to refer to the other pages of the transcript, before I answer that--my lord, as to that I would say yes. I would say it is in the transcript there that we said our case was finished, with the exception of Mr. Schultz, but I am suggesting, at this time, my lord, that it would be more helpful to your lordship to hear McKinnon, because he is one of the sources of Mr. Schultz's evidence. Some of the other sources your lordship cannot hear, but it would be more satisfactory, I submit, for the purpose of the Commision, that your lordship hears this witness, and let my friend have the opportunity of cross-examining him. I won't press the point.

THE COMMISSIONER: Well, it is my view that the unusual course adopted here in permitting the claimant to adduce the evidence of Schultz at a later time was granted on the clear understanding, as expressed at page 654, that the claiman't case was finished,

with the exception of Mr. Schultz. In the circumstances, I think it would be unjust to the Government to permit any change in that situation. We have been waiting now a year for Mr. Schultz, and I will ask you to proceed, and lead only the evidence of Mr. Schultz.

As to the other feature that counsel has discussed,--what evidence Mr. Schultz will adduce, I will deal with that problem when it arises in Mr. Schultz's evidence: that is, dealing with questions of value, as well as quantity, so there will be no ruling on that feature of it at the moment.

MR. BALDWIN: My lord, at this time, and if my friend has completed his remarks as to this preliminary objection, and I take it your lordship has dealt with it--

THE COMMISSIONER: I do not desire to rule on it yet, until I get on, and appreciate what it all means. I think it is much better to lead the evidence, generally, of Schultz, and deal with the question as to how far he can go while he is on the stand.

MR. BALDWIN: Very well, my lord. I had intended filing this amendment, my lord, and I am moving now to amend in accordance with this Forest Inventory which has been filed. We will mark it now. Your lordship has my copy of it. That is 61.

THE COMMISSIONER: Miss White, are you sure there is not another report in the file?

MR. BRAIDWOOD: I am sorry, my lord, but this is the one that is clearly marked for you.

MR. BALDWIN: We delivered one to Mr. McPherson in July, and we have his receipt for it.

MR. BRAIDWOOD: Well, my lord, there seems to be a little confusion about it. I have never had any but that copy there, and Mr. Shears says he hasn't received one.

THE COMMISSIONER: Well, perhaps the Custodian can trace it. I fancy it is going to be awkward for counsel to proceed with the examination without a copy.

MR. BRAIDWOOD: I am having it looked up immediately, but that won't affect my friend's motion. I say my not having a copy will not affect my friend's motion.

THE COMMISSIONER: I have not heard what the motion is.

MR. BALDWIN: Well, I only wish to say this, that this Exhibit was in Commission counsel's hands in July.

THE COMMISSIONER: Well, we are not worrying about that now.

MR. BALDWIN: This is an application to amend in accordance with this inventory, and in accordance with the evidence.

THE COMMISSIONER: May I have a copy of it?

MR. BALDWIN: Yes, your lordship. Perhaps your lordship would like to read it over.

THE COMMISSIONER: I would like to get the original claim. This claim has been amended so frequently.

MR. BALDWIN: Yes, I can retype it, and I think that would be more convenient all around.

THE COMMISSIONER: There are five different amendments now. All right, proceed, Mr. Baldwin.

MR. BALDWIN: The first amendment is to Item 1 of Paragraph

5 of the amended claim, and, in brief, it amounts to this: The claimant originally claimed five dollars a thousand for the timber on Block 195. This amendment has nothing to do with Mr. Schultz's report. It is merely an amendment in accordance with the evidence.

THE COMMISSIONER: Let us get the claim as it stands now. Can you tell me which of these documents it is?

MR. BALDWIN: This is the last one, and there was a letter, your lordship may recall, directed that we break down the quantities on the limit, and by letter dated November 15th, 1948, we attempted to do so, and that is the last amendment.

Item No. 1 of Paragraph 5 has not been amended to this date. It was the claim with respect to Block 195, for which we are claiming on the basis of $5.00 a thousand for 55 million feet.

MR. BRAIDWOOD: I don't wish to interrupt my friend, but I gave him yesterday an extract that I had Mr. Shears prepare. It is merely Mr. Shears' work, and I don't know whether my friend has checked it, but it appears to be a survey of the amendments in Table form, and I was wondering if that would be helpful for your lordship, in order to see the whole picture.

THE COMMISSIONER: I will try to get along with Mr. Baldwin. I have the last amendment now, and I will see if I cannot follow it. I take it you are endeavouring to reduce the claim--

MR. BALDWIN: We are reducing the claim from $5.00 a

thousand to $4.50. That is an amendment in accordance with the evidence.

THE COMMISSIONER: Any objection to that, Mr. Braidwood? We had better deal with these seriatum.

MR. BRAIDWOOD: I must take objection on behalf of the Crown that almost from week to week we don't know what we have to meet in the way of an amendment.

THE COMMISSIONER: Well, that has been my problem, but you are not going to be hurt if they reduce their claim, are you?

MR. BRAIDWOOD: No.

MR. BALDWIN: And the second one is Item No. 2 of Paragraph 5.

THE COMMISSIONER: And is that also a reduction?

MR. BALDWIN: No.

THE COMMISSIONER: There is another figure, value $182,000.00.

MR. BALDWIN: Well, that is the same thing. I have dealt with Item 1 in toto. That is merely arithmetic.

And then Item No. 2. This amendment is to accord with the Forest Inventory, Exhibit 61, by Mr. Schultz.

THE COMMISSIONER: That was amended in accordance with the letter of November 15th, 1948, according to the notations I have made on it.

MR. BALDWIN: That is true. Item No. 2 has been the subject of an earlier amendment.

THE COMMISSIONER: And now it is being amended again?

MR. BALDWIN: Yes.

THE COMMISSIONER: When is this man going to make up his

mind as to what his claim is?

MR. BALDWIN: This amendment is purely in accordance with the inventory, and it is not a question of Mr. Kagestsu changing his mind, but it is just in accordance with this report.

THE COMMISSIONER: How does the proposed amendment change the claim as originally made, or as finally amended on November 15th, 1948?

MR. BALDWIN: Roughly speaking, the claim which your lordship speaks of as last amended in November, 1948, was based on a volume of 27 million feet, and now we have a volume of roughly 54 million feet, according to Mr. Schultz's inventory, and, in brief, that is the reason for this amendment.

THE COMMISSIONER: Practically double, and that carries us right down to the top of page 3 of your draft amendment, does it?

MR. BALDWIN: Not quite, my lord. It carries us down to IV--that is the Roman IV on page 2.

THE COMMISSIONER: 43,225.

MR. BALDWIN: Well, it carries us down to 5, to the end of 4--no, your lordship is correct, 4 is an amendment--valuation of the immature stands. That is in accordance with the report--in accordance with this letter.

THE COMMISSIONER: And the reason for that is you say this has become necessary in consequence of Mr. Schultz's report?

MR. BALDWIN: That is correct.

THE COMMISSIONER: And what have you to say about this,

Mr. Braidwood?

MR. BRAIDWOOD: Merely the remarks I made at the opening, that the Crown is prejudiced by these amendments, and the various material that has been put before your lordship keeps us jumping.

THE COMMISSIONER: Well, I suppose there has been a considerable growth of timber since we have been waiting for this man to be here.

MR. BRAIDWOOD: And I do feel, on behalf of the Crown, the claimant should have been ready with his case before this.

THE COMMISSIONER: Do not worry about that. I entirely agree with you. We have given him a good many concessions, but he is now seeking, he says, to make his claim conform to what is found by Mr. Schultz with regard to the timber that is there.

MR. BALDWIN: I don't think my friend can say he was embarrassed by that. He has known of it since July.

MR. BRAIDWOOD: No, I just got the amendment this morning.

THE COMMISSIONER: I am conceding your friend has the right to complain, but are you prejudiced in proceeding on this claim, in view of the fact that it arises from Mr. Schultz's report entirely?

MR. BRAIDWOOD: I suppose it depends on what importance your lordship gives to the Schultz Report.

THE COMMISSIONER: Well, that is so. One can aim at the moon. All right, I will grant your amendment to Item 2. I do not think I had so declared in regard to paragraph 5--paragraph 5 amendment granted.

Now, item 2, amendment granted, which includes

all the figures in the notice of amendment down as far as the last two lines on page 2.

MR. BALDWIN: Very well, my lord, we are at page 3 now, then.

THE COMMISSIONER: How about this item 5?

MR. BALDWIN: That, my lord, as your lordship will recall, I recommended settlement.

THE COMMISSIONER: Do not rely on my memory. I do not recall very much of it. It is over a year now.

MR. BALDWIN: Well, it is a case where the claimant put a value on the railway--on the grade, of 50 cents a thousand: that is, 50 cents a thousand on the standing timber remaining to be taken over it, and evidence was x lead as to the valuation that was to be put on the grade.

Now, as the claim was originally framed, that was included in the value of the railway--a $14,000. item--28 million feet at 50 cents a thousand, and that value was assigned to the railway, and it may be your lordship will find it more convenient to deal with it this way. We have claimed it as either an accretion to the value of the timber, or the value of the use of the railway, alternatively--that figure of $28,260.

THE COMMISSIONER: It is difficult to follow. This does not represent standing timber, does it?

MR. BALDWIN: It represents one of two things: either an increase in the value of the timber, because of the roadbed there--

THE COMMISSIONER: Because of the existence of the roadbed?

MR. BALDWIN: Yes, and if we do not apply it to the timber, and take it out of there, then we say that is the value of the roadbed--having in mind that there was 56 million feet to come off this roadbed, and we assigned 50 cents--

THE COMMISSIONER: I think you had better strike out all B-25 and let it stand in 2-A, subject to what your friend has to say. It is confusing. Actually you are not claiming for the value of the timber, you are claiming for the roadbed?

MR. BALDWIN: That is correct. It could be allocated to either heading, my lord.

THE COMMISSIONER: How do you say that this is a matter that is affected by the Schultz report?

MR. BALDWIN: Because it depends on the value of the timber.

MR. BRAIDWOOD: My lord, the original claim was 28 million.

THE COMMISSIONER: You say the road that is laid into the timber, having 100,000 feet in the stand, is less valuable than a road that is laid into timber that has 200,000 feet?

MR. BALDWIN: Yes, my lord.

THE COMMISSIONER: Well, I suppose that is affected by the same situation. Have you any objection to that, Mr. Braidwood?

MR. BRAIDWOOD: No, I have just the same objection as I had before.

THE COMMISSIONER: Item No. 3 - amendment granted. Item 2-A, I should say. There is still another one,

Item 3.

MR. BALDWIN: That, my lord, is merely to accord-- to bring the figures into line. Item No. 3-- formerly in Item 3, there was this $14,000.00 for the roadbed, and that has been taken out. The value in use was formerly in Item 3. That is merely an allocation.

THE COMMISSIONER: That appears to have been fairly radically amended on a previous occasion. Have you any objection there, Mr. Braidwood. They are apparently applying to reduce the claim previously made, and it looks to me from the notations I have made here that this must have been a matter that was spoken to before.

MR. BALDWIN: I don't think your lordship appreciates this fully. I am afraid I have not been very clear on it. Item No. 3 is an arithmetical matter, and by the rearrangement--

THE COMMISSIONER: Now, just a minute--are we understanding one another. Item No. 3 of your claim that I have before me relates to certain locomotives, railway cars, pushcarts and speeders, and that is how the $37,029.00 was made up?

MR. BALDWIN: As that claim was originally set up, my lord, the $14,000.00 is the value of the railway, and it was included in that other figure.

THE COMMISSIONER: There are 8 miles of railroad?

MR. BALDWIN: Yes, and it was the value in use of that railroad.

THE COMMISSIONER: Well, is this a repetition again of

what is in 2-A: that is a mere road, and not a railroad in 2-A, is that it?

MR. BALDWIN: It is the same item. I am afraid this is somewhat complicated, because, under the terms of the settlement, Mr. Bruhn recommended a basis of settlement on this equipment, and in that we reserved the right to claim as with regard to the value in use of this railway--and value in use we assessed on the quantity of timber we then thought was on the limits, at 50 cents a thousand.

THE COMMISSIONER: Now I am hearing something new. I know nothing of any settlement. What settlement are you referring to.

MR. BALDWIN: I am referring to the proposed settlement that was submitted by the claimant, pursuant to your lordship's direction, with regard to the equipment.

MR. BRAIDWOOD: There was a memorandum addressed to your lordship in November, 1948, signed by Mr. Brown on behalf of the claimant, agreeing to a valuation being placed, subject to your lordship's discretion, on certain items of equipment, at $8,000.00.

THE COMMISSIONER: Is that an exhibit?

MR. BRAIDWOOD: No, it is not an exhibit, but this confusion arises again from a change in counsel. I have a copy on my file, and it contains a copy of Mr. Bruhn's signature.

MR. BALDWIN: I think I can explain this.

THE COMMISSIONER: Let me see if we have the document. It is not marked as an exhibit. See if you can run

it down in your file, Mr. Braidwood. Have you anything that looks like that?

MR. BRAIDWOOD: It does not appear in my list of exhibits, either.

MR. BALDWIN: No, it isn't an exhibit.

MR. BRAIDWOOD: It occurs on November 18th. I think it was during the course of the Hearing. I think there was a reference to it in the evidence, while my friend was speaking of it.

THE COMMISSIONER: You had better explain to me what it means, because I have no recollection of it.

MR. BALDWIN: Briefly, I can explain it this way. It does not matter, for this purpose, whether the proposed settlement was filed with the Commissioner or not: Value of Item No. 3, $8,529.00. That was the piecemeal value, and to that value was have assigned and claimed for, $14,000.00, being 50 cents a thousand on the 28 million feet, that, we thought then, was on the limits, and that makes a total, as your lordship sees, of $22,529.00.

THE COMMISSIONER: Is this the claim you are making under 2-A, value in use of the railway?

MR. BALDWIN: Yes, this Item No. 3 is merely an arithmetic change, taking away from the old item of No. 2 the $14,000.00 which was formerly included in it.

THE COMMISSIONER: Well, there is no Item x 2-A in the claim, as last amended. There is an Item 3.

MR. BALDWIN: Yes, my lord. Perhaps I can explain it this way.

THE COMMISSIONER: I do not think it would have been possible for anyone to make what could have been a simple matter more confusing than this has been. Now, I cannot relate these figures, as you finally have them, $22,529.00 to the figure of $28,260.00. There does not appear to be any relation at all.

MR. BALDWIN: No, the reason for that is the change in the volume. The $14,000.00 was based on a volume of 28,000, and this 28,260 is based on the volume of the cruise that is shown to be there.

THE COMMISSIONER: Well, what are you leaving in your item 3.

MR. BALDWIN: I am leaving $8,529.00.

THE COMMISSIONER: No, but you have something else under Item 3 on the document which, as originally amended, reads $37,029.00, and that all relates, as it appears, to logging equipment. I think it might be easier, Mr.Baldwin, if I adjourn now until 2 o'clock, and give you an opportunity to have this claim typed as amended, showing the amendments in red, and then it will be, perhaps, understandable. Certainly it is not now.

MR. BALDWIN: I know. I apologize to your lordship. It is very confusing.

THE COMMISSIONER: I will adjourn now until 2 o'clock, so that you can bring in the amendment, and I hope this will be the last one.

MR. BRAIDWOOD: I don't know whether your lordship can remember this feature of it, but so that you may have the information before you, this equipment

was dealt with at page 869, when my friend was discussing the calling of Skelding,-you may recall that Skelding was an appraiser on the buildings.

THE COMMISSIONER: Yes, I can remember Skelding.

MR. BRAIDWOOD: And at the top of page 869, your lordship says: "We are all finished with the equipment"--whatever evidence Skelding was going to give--Skelding was going to give evidence on the buildings (Reading).

THE COMMISSIONER: Well, what disturbs me is that your friend has made a claim under 2-A for the value in use of the railway, and now it appears that item 3 relates to the same thing.

MR. BALDWIN: That is correct. Item 2-A just takes it out of the body of 3, and that is why the amendment is necessary to 3, because in 3, originally, there was a $14,000.00 item.

THE COMMISSIONER: Well, it has been amended so frequently--I have attempted to follow it in pen and ink, and I do see a figure of $14,000.00 included in various other figures of alleged values of equipment, making a total of $32,029.00. That effects a reduction of $25,000.00 from the previous claim, and for that reason I think it is going to make it very much simpler for me, and, I hope, for counsel, if we have this claim finally put in a claim that is understandable. It is not to me now. Perhaps I am very dull.

MR. BALDWIN: No, I can easily see your lordship's difficulty.

THE COMMISSIONER: Well, it will take a little time to do the typing, and I was wondering if I give you until 2 o'clock if that would be sufficient?

MR. BRAIDWOOD: Well, I would ask my friend to give me a copy, if he can.

THE COMMISSIONER: We will resume here at 2 o'clock.

(PROCEEDINGS ADJOURNED UNTIL 2 P.M.)

(PROCEEDINGS RESUMED AT 2.15 P.M. PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: Yes, Mr. Baldwin.

MR. BALDWIN: My lord, I have prepared this amended claim which your lordship asked for. It is underscored in red showing the amendments from the last one. My friend and I have discussed it briefly and I think he is clear now as to what we mean by it.

THE COMMISSIONER: The only one we haven't dealt with was three, was it not?

MR. BALDWIN: That is correct, my lord, I think.

THE COMMISSIONER: You have had an opportunity to examine this now, Mr. Braidwood. Have you any objection to the amendment that is made to 3?

MR. BRAIDWOOD: Well, of course, my lord, I want it clear on the record just what position has been reached. My friend Mr. Shears and I compared this with the memorandum that the Custodian has, and down to item 2-D, while we cannot necessarily agree with my friend's amendment, we can follow what he is doing.

THE COMMISSIONER: Yes.

MR. BRAIDWOOD: We can follow what he is doing there, and and the total of item 3 and 4 and the total of item 5

and 8, we take it in the memorandum that there was some difficulty about finding as to what settlement would take effect, and remove this from the claim-- if your lordship accepts that as the basis of that memorandum. That is the one of November 18th

THE COMMISSIONER: Yes, but in the meantime I have had this memorandum and it had not come to my notice before and it was lodged with the Commission office but Miss White was not aware of it until just this morning. Now this relates to 3 and 4, 5 and 8, does it not.

MR. BRAIDWOOD: That is right.

THE COMMISIONER: Now, the one we were concerned with this morning was part of 3. You are not changing that otherwise, are you Mr. Baldwin.

MR. BALDWIN: No, it is item 3. The change that we ask in item 3 was merely to accord with this $28,260; formerly in item 3 there was included that $14,000 item which your lordship referred to as having on your notes.

THE COMMISSIONER: You are taking it out of 3.

MR. BALDWIN: Yes, and it is going in separately as to "A".

THE COMMISSIONER: Is that clear to you, Mr. Braidwood.

MR. BRAIDWOOD: Well, the principle is clear? I am satisfied as to the principle.

THE COMMISIONER: Well now, as far as the proposed settlement is concerned, before we conclude the argument, I will inform counsel of my views as presently advised as to the proposal which has been jointly made which seems to be entirely satisfactory, but I would like to read it through again and relate it to the claim before I can tell you I agree with it. In the meantime

you need not deal with any of those items. Do you follow me? You need only deal with the items that are the subject of this joint recommendation, 3, 4, 5, and 8.

MR. BALDWIN: We just included them because we hadn't any settlement reached.

THE COMMISSIONER: There has not been any.

MR. BRAIDWOOD: If your lordship approves of this memorandum, item 3, $8,529.00, item 4, $9,925.00, and item 5, $8,487.27 and item 8, $822.75 will all be struck out of he claim and a total recovery of $8,000.00 substituted therefor.

THE COMMISSIONER: Yes, that is my understanding, we are clear on that.

MR. BALDWIN: Yes, I think item 2, takes into account the recommendation of the claimant with regard to the value and use of the railway.

MR. BRAIDWOOD: Now my lord, there is another matter which has some confusion attached to it and that relates to items 6 and 7, and as your lordship will recall this is rather a mixed up claim and it involves the claimant Kagetsu and the Deep Bay Logging Company, and I understand from y friend, for the purpose of simplicity, the personal matters and the company matters were dealt with together, in order to dispose of them more rapidly.

THE COMMISSIONER: Well, I think the fact was that neither Kagetsu nor the Company could differentiate between one ownership and the other.

MR. BALDWIN: That is right. Your lordship heard myself and Mr. Hunter on the question of real estate and the cars--Mr. McPherson and myself and Mr. McPherson was never concerned with that phase of it.

THE COMMISSONER: The government has not disposed of it.

MR. BALDWIN: The government has called no evidence. We called our evidence and then Mr. Hunter said we were dealing with them en bloc.

THE COMMISSIONER: How do you mean I was dealing with them en bloc?

MR. BALDWIN: Well apparently the government rather than call evidence on all these personal claims was going to put them altogether.

THE COMMISSIONER: Do you consent to that, Mr. Braidwood?

MR. BRAIDWOOD: I just submitted that to my friend a few days ago. I drew up the sheets and gave him the usual notice and asked him if he considered his case fell within the usual cases or if there was any exceptional feature.

THE COMMISSIONER: Well you will probably not have an opportunity to deal with hat while these matters are under consideration.

MR. BAIDWIN: We regarded the timber limits as the most important.

THE COMMISSIONER: Well, would you prefer to leave those two items over until we finish this argument?

MR. BAIDWIN: I think so.

THE COMMISSIONER: You might leave it over to be a subject of discussion between you and your friend, and if

cannot get together as has been done in many of these other claims you can take it up again but in the meantime we need not deal with itemw 6 and 7 here.

MR. BALDWIN: On this amended claim we only go as far as 2-A.

THE COMMISSIONER: And what about 8?

MR. BALDWIN: That is included in settlement.

THE COMMISSIONER: That is right, you need not go further than 2-A.

MR. BRAIDWOOD: Well, I take it for the purpose of clarity, what the Crown has to meet in the present instance, is the claim for timber and the enhancement of the railway. That is all.

THE COMMISSIONER: If that is all included under 2 and 2-A.

MR. BALDWIN: Timberland is the only comment I would make on that matter.

MR. BRAIDWOOD: Yes, and timber land.

MR. BALDWIN: And the items set out in 2-A, the buildings, etcetera.

THE COMMISSIONER: Well, that is quite clear. All we are concerned with now is 2 and 2-A. Is that right, Mr. Braidwood?

MR. BRAIDWOOD: Yes, my lord, that seems to be it.

THE COMMISSIONER: All right. You have a witness to call now?

MR. BALDWIN: I amm calling Mr. Schultz, my lord.

CHARLES D. SCHULTZ, a witness called on behalf of the Claimant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BALDWIN:

Q What is your full name?

A Charles Davies Shhultz.

Q And you have been sworn on this inquiry to tell the truth? A. That is correct.

Q Now, Mr. Schultz, some time has elapsed since you were last before his lordship, and for that reason I think you had better be refreshed as to your qualifications. You are a Forest Engineer?

THE COMMISSIONER: I donot think you need pursue that. This has all been covered before.

MR. BALDWIN: Yes, pretty well.

THE COMMISSIONER: It is in the transcript.

MR. BALDWIN: In a generalway.

THE COMMISSIONER: Are you contesting Mr. Schultz' qualifications, Mr. Braidwood?

MR. BRAIDWOOD: Not at all, my lord.

THE COMMISSIONER: Very well, you need not pursue that.

MR. BALDWIN: At this time I think we had better put in this Forest Inventory as the nextexhibit.

MR. BRAIDWOOD: Well now, the issue coms up, which your lordship spoke of this morning, as to whether my friend is permitted to introduce evidence of value from this witness. The exhibit my friend proposes to tender contains onepage as to value of immature timber, and an exhibit letter, which we discussed this morning signed by Mr. McKinnon.

THE COMMISSIONER: Have you that letter here?

MR. BRAIDWOOD: It is in the report. I think about page 21, isn't it?

THE WITNESS: Page 20, page 22.

MR.BRAIDWOOD: Page 22 is the letter, my lord.

THE COMMISSIONER: How does this arise? You had better outline the whole position to me, because I have not seen the report, and you have.

MR. BRAIDWOOD: This is my friend's report.

THE COMMISSIONER: I am dealing now withyour objection, and I want to understand what is your objection.

MR. BRAIDWOOD: This purports to be a Forest inventory, which is taken on a quantitive basis, and built up with photographs and charts and illustrations, with Mr. Schultz' conclusion, and I have no objection to that. That is entirely what your lordship ruled should be allowable in this adjourned evidence, but there are the two pages concerned -- pages 20 and 22 -- I may be wrong -- but I think those are the only pages that contain references to value and the only value referred to is immature stands on logged areas.

THE COMMISSIONER: Well, what is meant by that"immature stands" - logs which at the date of sale are not fit to be logged, but which may grow into merchantable timber?

MR. BRAIDWOOD: Well, that is what I assume, but there has not been any prior evidence in that respect in the case and perhaps Mr. Schultz can tell us to what he refers in that. I cannot object to that.

MR. BALDWIN: My lord, if I may speak to this. I may say at the outset I propose to get any evidence I can

from this witness-- anything he knows I think yur lordship should have it. This is an inquiry , and there was no suggestion to my knowledge that this was to be restricted in is examination.

THE COMMISSIONER: I am frank to confess I don't keep those things in my mind over a year and I cannot say whether he is right or wrong. You say you have no recollection of it.

MR. BALDWIN: I have no recollection and I don't think the transcript supports any such restriction.

THE COMMISSIONER: Am I right, this immature timber, and the claim made in respect of it, relates to trees that could not be described as merchantable timber as at the date the Custodian took the matter up and yet Mr. Schultz now asserts in his report timber of that character had some value, even though it was not merchantable.

MR. BALDWIN: Yes, my lord, I think that is a correct statement, more or less.

THE COMMISSIONER: How are you going to be hurt, Mr. Braidwood if the report is going to be filed for what it is worth?

MR. BRAIDWOOD: My position is simply this, my lord: any evidence in chief that the claimant could normally bring to your lordship's attention was given or should have been given and there was one item which was missing Mr. Schultz had not made his timber cruise or inventory , and I am not sure what the difference is between the two, but that should have come out in chief, because you will recall that Mr.McPherson

was debating as to whether the Crown should go ahead and have another cruise made to check this, and what position is the Crown put in now if my friend can at any time during the case, and after Mr. McPherson has concluded theCrown's case, bring up other evidence as to value, which may not be rebuttable and after this man finished his evidence he may have to ask for an adjournment to have another cruise made.

I have Mr. Smith here today, but if this case goes on and on the Crown is put in a very onerous and burdensome position and I think my friend should have put in value at the time when he could properly put it in and then relate the quantity that he could get now to what he could have got formerly.

THE COMMISSIONER: I think there is a good deal of confusion arises here. I think what your friend is attempting to do now is to assert certain classes of timber had value, which he acknowledges could not be described as merchantable timber, as at the date of the sale, and that is all it comes down to.

MR. BRAIDWOOD: Well, if that is all it comes down to is he not inserting a new claim which I have not had an opportunity to look at.

THE COMMISSIONER: No, granted he has had varying ideas as to what the timber content was at the date of this sale, he now has reached the conclusion that his claim is complete and that he does not propose to seek further amendments. So all it comes down to as I see it, he says there was value in certain

timber which was too small to be merchantable at the date of sale and that that should have been taken into consideration and a price realized for it.

MR. BRAIDWOOD: Well, if your lordship takes that view, why didn't my friend bring that up before, and say to Mr. Schultz,"there is value in this immature timber and you go and tell me how much immature timber there is".

THE COMMISSIONER: Well perhaps you can recall how far your friend went with Mr. Schultz at the former examination.

MR. BRAIDWOOD: Well he did not go very far. He just put him in the box and he just gave a very short account of it.

THE COMMISSIONER: Well, that is my recollection of it. He was put in for Mr. McPherson's cross examination rather than for any purpose to adduce evidence other than that which was contained in the report, which was then not available. Is that not right?

MR. BALDWIN: Yes.

MR. BRAIDWOOD: Well, I submit the types of claim could have been set up more clearly but I cannot combat it now.

THE COMMISSIONER: Well, I appreciate your difficulty, Mr. Braidwood, and I am going to keep that in mind in the event that the Crown should be embarrassed by evidence having been adduced in support of this feature of the claim; but in the meantime I propose to allow counsel to examine on it and I think as the

matter develops it will transpire that you will find you will have very little to be concerned about and I will reserve you the right to apply later for an adjournment in order to adduce evidence to meet it if you think you have anything to meet.

MR.BRAIDWOOD: Thank you, my lord.

MR.BALDWIN: I understood your lordship to say you had not read the report.

THE COMMISSIONER: No, I havenot.

MR. BALDWIN: So it will be necessary for me to go into it in some detail.

THE COMMISSIONER: Yes, you had better go into it as fully as you wish.

MR. BALDWIN: Q: What areas -- what blocks did this report cover, Mr. Schultz?

A Blocks 504, 263, 617, 566,--

THE COMMISSIONER: Not too fast-- 504, 263,--

A 617, 566, 274, 198,234,256,267 --

THE COMMISSIONER: 234?

A 256, 267, 276 and Lot 88, Newcastle district, Vancouver Island.

Q MR. BALDWIN: And how is it made up? How many men did you have on the job?

A There was a Forest Engineer and two assistants and myself.

Q And that was as far as the ground work went on the ground? A. That is correct.

Q And how long were they on the ground?

A Eighteen days in the field.

Q You are reading from a note that you made?

A That is right, I got this from the accountant.-- 18 days in the field, but that is not counting the first cursory examination we made to start with.

Q That is not counting the time taken up in Exhibit 14?

A At first there was a report put in but I have forgotten it myself now.

Q What time of the year was this report made and the examination conducted?

A December -- November-December of 1948.

Q Now there was snow on the ground up there wasn't there for a considerable part of the year?

A Yes, that is right.

Q And how did that affect the time taken on your cruise?

THE COMMISSIONER: You do not need to explain the delay. We have got it now. Was that the purpose of your question?

MR. BALDWIN: No, my lord.

THE COMMISSIONER: How does it affect the delay -- was that your question?

MR. BALDWIN: No, my question is to bring from this witness the conditions under which the cruise was made.

THE COMMISSIONER: All right, I thought you were endeavoring to explain the delay.

MR. BALDWIN: No.

THE WITNESS: Winter and snow conditions held the work up, as compared to the performance that would be carried on during the summer months.

Q Well, how would you assess that? How much shorter would the job had been if it had been done in the

summer time? A. Oh, it probably took about twice as long as normally would have been necessary.

Q Did it affect the cruise -- the field examination in any other way?

A No, it would not affect the work except for the discomfort to the people on the operation under those conditions.

Q Now in the envelope at the back cover of Exhibits 61, there are some aerial potographs taken of the area and in the report I believe it is stated that an air survey was made of the area, is that correct?

A Yes, and air survey was made of the area -- of the timber types, which were interpreted and differentiated on the photographs and then a map drawn to scale with this information on the plan and that plan is the basis on which the report at the back is built up. These photographs are not the photographs from which it was made. They are photographs to show the country and the reason they are put in is so the normal person can see the country. The vertical photographs just show a flat country and are difficult for one to interpret.

Q Well your types of timber interpretation were not made up from those photographs?

A No, these are pictures that the planes took as they went over the ground.

Q And this plan at the back of Exhibit 1, is the one prepared from the air survey?

A That is a combination of air and ground survey--

the result of both.

Q How did your survey tie in with the original survey lines on the ground?

A Quite well. We did not find any variation . It would not be unusual if there had been, because some of these old land surveys are out geographically in relation to the shore line on Vancouver Island and some posts some miles inland but we did not find anything out of order in this particular operation.

Q Now your ground party was not on all the blocks that you listed when I opened the examination, or was it?

A Excuse me?

Q Was your ground party, or field party, actually on all these blocks shown in the plan?

A No. There was one area, which, due to snow conditions-- one small area that it was physically impossible to get into. That was along the south border of Block 2-- 276 and there was one 40 acre block -- in Block 263 in the north-west corner of the plan.

THE COMMISSIONER: What did they miss in 276?

A I will refer to this report here. 276 I will read this.

"The planimetric air survey map indicates that 180 acres of merchantable timber remain in Block 276. "

THE COMMISSIONER: What page are you reading from?

A Page 17.

"If the average volume is 25 M.B.M. per acre (a conservative estimate in our opinion) the volume of remaining timber is 4,500 M.B.M. "

We had to make an estimate of that mature timber on the basis of our examination of the adjoining area and from our experience and the same thing applied to a small area in 263.

THE COMMISSIONER: 262.

A Block 262, page 11.

MR. BALDWIN: Q: At the foot of the page:

A "The above estimates of volumes are based on the cruise of similar timber on 40 #1 Block 504." That is the adjoining --

MR. BALDWIN: Q: Adjoining in which direction?

A To the west. Actually that is a negligible volume compared to the whole thing. There was a ravine there was a heavy snowfall the day we went out to do that job and we couldn't make it.

Q While we are on the point of Block 276, at page 17 in your report, you say, as you have already read that, "assuming the average volume is 25 M.B.M. per acre", and you say"a conservative estimate in our opinion". What do you base that opinion on? Why do you say it is conservative?

A Well, on general opinion , and also the average per acre on the entire area, over eighteen inch diameter breast high and over, is 32.7 thousand per acre, page 3 and the average per acre of the timber logged in adjacent areas to the timbers cruised, as a result of compiling the S. & R. account scale, and royalty accounts, on timber removed, page 19, is 29.5 thousand per acre, and we put 25,000 on this area that we could not get into. Now that is the only basis on

which we did it. Another point probably should be noted here, there is a fairly good common sense check on the result. That is, the yield from the timber of the logged area was 29½ thousand per acre and our estimate of the remaining timber is 32.7.

Q Now I will take you to page one of your report, Mr. Schultz -- as to control -- what do you say, you might read it?

A Existing British Columbia land surveys were used as control for the field examination. That is common practice.

Q That is, you mean by that you took your departure --

A Yes, on these plans you see corner posts marked and survey lines, and those were in, and those were used as a base.

Q And what was the intensity of your examination of 617? I refer you to paragraph B on the same page.

A 617 -- 5% on 617.

Q 5% examination of 617?

A Yes.

Q And of 504? A. 10%.

Q And on 504 and on 274 and 566 -- or perhaps --

A Your "C" section outlines that better -- 5% -- by tallying. Do you want me to read this or just tell you?

Q Yes, tell us.

A By tallying trees for a distance of one-half chain or 33 feet on each side of the cruise examination lines, the timber was recorded on 5% of the timbered areas of Block 617 and 566 and on 10% of the timbered

of Blocks 504 and 274. And these talleys were applied to the whole in each case respectfully.

Q And your measurements of diameters -- your estimate of dimaters was made how, or your figures for diameters.

A They were estimated and checked by a diameter tape.

Q They were checked frequently?

A Yes, you see we did this -- there are usually two men on the work of this kind and we had an extra man because we wanted to submit the information in this manner by measurement, so that the result would be based mainly on measurement, leaving only two divisions of the work for estimates, which is the cull factor and the breakage factor.

Q What would you say with regard to accuracy and the care taken in measurement2- how would this cruise and this inventory compare with an average commercial cruise?

A Well, --

Q -- as to measurement?

A In normal practice we don't measure each tree. We estimate a tree as we go along. Some jobs done that way might come in closer than even this, but we feel this is the way to do it for this purpose.

Q Now your volumes you say were compiled from volume tables ? A. Yes.

Sample trees were measured -- diameter and height, to get the height and diamter range and corrections made. For instance you have a different volume range. If you have a short stand you have a different

volume range than on tall stands and these were applied-

Q And over on page 2, I refer you to paragraphs "G" "breakage and cull factors".

A These were on the ground. These were the average cull factors -- cross tallys.

Q "Deductions were made for breakage and defects from inspection of ground and timber conditions. Average deductions applied were as follows: Cedar and hemlock 30%, Balsam and Fir 20%".

A Yes, they show in the summary sheets. You see we have gross volume and that is deducted --

Q And this breakage and cull factor was computed and estimated by you in each block?

A Yes.

Q Each 40 acres? A. Each area that a tally applied to.

Q Now where does that appear in your report, for the Commission?

A It appears in the summary sheets, page 26, and at 27. You will notice how it is compiled. Take page 27, Block 617. You will note on the sheet are a number and a heading, and under each species is the number of trees, and the gross volume calculated for measurement -- the breakage and cull deduction and the net volume carries right through.

Q What comment would you have as to that figure for breakage and cull? Would it be high or low or what?

A Well, that is a fairly high percentage of knockdowns. I think any cruiser would admit that, but that was

because the timber was that way in that particular case.

THE COMMISSIONER: What do you mean by "the timber was that way"?

A In the hemlock for instance some of the butts were defective, and that is mainly the result of the high percentage factor on the hemlock. Usually it is lower. That is fairly normal for cedar -- 25 or 30%. Cedar grows off that butt rot, and balsam and fir is probably a little high. I think the average on Vancouver Island is five or ten percent, but we found reason to knock it down.

MR. BALDWIN:

Q Now I refer you to the next paragraph H on page 2, your net volume?

A That is a statement covering the summary sheets we we just looked at.

Q Yes. Now refer to page 5, Mr. Schultz?

A Yes.

Q The figure you have there of 39,799,-- in paragraph 3? A. Yes.

Q That is a net figure, isn't it?

A Yes, that is a net figure.

Q In other words it is after this breakage and culls has been stricken away?

A That is correct.

Q THE COMMISSIONER: Is that confined to block 276 or does it cover it all?

A It covers the entire area, but it is summarized. The timber compiled from examination in the forest -- the timber that we had to estimate, and which we

spoke of earlier, in Block 276, and certain "standing felled and cold-decked" piles and similar to Block 504. That is our final estimate.

THE COMMISSIONER: Q; How are those figures, brought down to 1948, going to be helpful to me in determining what the value was in 1943?

MR. BALDWIN: These are the quantities that were on the limits.

THE COMMISSIONER: Yes, in 1948.

MR. BALDWIN: But they were there in 1942 as well, my lord, and in 1944 when the property was sold. The timber didn't come down in the interim.

THE COMMISSIONER: I was wondering how you could relate this cruise to 1943. Perhaps you are right. It would not make any difference.

MR. BALDWIN: This is just the volume of timber that was there.

THE COMMISSIONER: And a period of five years would not make any difference?

THE WITNESS: Well, the timber that was logged is shown here from the scale and royalty accounts.

Q And the timber that was cold decked?

A The timber standing on the stump, and the timber standing on the ground, either felled, bucked or cold-decked -- that is all the timber that was there as of November 1948. And then in Section 4, we add the timber that was logged from 1945 to '48, taken from the records.

Q I see?

A. Which brings the inventory as at November 1948 to date.

Q Well there had been logging operations conducted there in the period from '45 to '48, had there not?

A Yes.

Q And anything before '45, do you know?

A Yes, it is shown here in yellow on the map. There was quite a bit of logging.

MR. BALDWIN: Q: Whose logging was that?

A I cannot answer that question.

THE COMMISSIONER: Well, it would be done after the evacuation of the claimant.

MR. BALDWIN: The only logging that was done in that area as appears by the map, was done in 1946.

THE COMMISSIONER: None of this timber you say was cut by the claimant.

MR. BALDWIN: Yes, there was a large area cut by the claimant. It is already in evidence--what happened was M acMillans bought the timber in 1944.

THE COMMISSIONER: In '43, wasn't it?

MR. BALDWIN: No, '44. 13th of March was the date of the agreement, and in the two years interim from Mr. Kagetsu's evacuation there had been no operation.

THE WITNESS: You will see on the coloured chart, "Logged and/Or burned) prior to September 1945", which is this coloured part here. It is quite an extensive area.

MR. BALDWIN: Q; Well, you don't know what logs were taken from that area which you have just referred to, do you? A. No.

Q And they are not included in this report at all?

A That is right.

THE COMMISSIONER: All right, go ahead.

MR.BALDWIN: Q: Now your total of 56,520,000 -- first of all take this figure of 39,000,000 on page 5, paragraph 3 -- what diameter is it -- breast high?

A 18 inches and over.

Q I refer you to page 3 of your report, paragraph 1 -- the total of the second column?

A 3, 302,000.

Q Yes, that is a net volume of 12 to 18 inches D.B.H?

A That is our estimate of the net volume 12 to 18 inches.

Q And that does not appear, and it is not a part of this figure on page 5 of 39 million?

A No, because we found from the current logging practice on the area it was 18 inches or over.

Q And the figure of the volume logged in paragraph 4, page 5, of 16,721,000 -- for that figure, how did you arrive at that figure?

A That came from the scale and royalty accounts.

Q And what diameter D.B.H. would that have given?-- from that timber -- from those logs? What was the utilization?

A Well, the only way I can answer that, our inspection of the timber indicated the cutting was 18 inches and over. There might have been some over. There usually is, but that is the general utilization in that area.

Q And your total of 39 million is a utilization of 18 inches D.B.H.?

A. Yes.

Q Now you have told his lordship about the aerial survey and the planimetric maps that you have referred to on page 2. Can you tell his lordship what value such an aerial survey and these planimetric maps are in making up a forest inventory of this size? A. The advantage is that you obtain the boundaries before you go on the area; the felled and bucked type or the logged areas or the immature area. There are different theories you can make and plot them to scale on the plan and that plotting was done by the Aero Surveys Limited, and we made the photo interpretation and they made the plan.

Q Did your photo interpretation from the air check with what you found on the ground?

A I might make it a little clearer there. The area of the immature timber is very important, because you are supplying a tally, which may represent ten or twenty percent of that area, and multiplying by the whole, and you could have a very good tally, but if that wasn't tied down carefully there would be room for irregularities.

Q And you consider the air survey was or was not of assistance in regard to establishing the outlines?

A This is our common practice now for that reason.

Q For what reason?

A So that we can tie down the areas definitely before we go in the field as well as possible, -- we try to have an air survey first. Another reason is we

can eliminate quite a proportion of the area that we otherwise would have to cover quite often if we see scrub or burn -- we don't have to go into it.

Q Does it affect in any way the speed with which the cruise can be made?

A A planometric map made from air photographs?

Q Yes. A. Oh,yes.

Q How long would you say it would take two men without the aid of a planimetric map to cruise the area you cruise?

THE COMMISSIONER: Well, am I concerned in that? Am I not only concerned withwhat quantity of timber was here?

MR.BALDWIN: Yes, you are concerned withit, my lord, because we are setting up what we say was the volume. This is a part in rebuttal evidence to evidence given by Mr. Smith. It may be important. I don't know what the witness' answer is going to be, but I want to see -- if Mr. Smith's 10% cruise, which he made with one man how long this witness took to make that cruise.

THE COMMISSIONER: Well, I won't stop you, but on the face of it it does not appear that is going to be helpful to me. I think I am only concerned with volume here.

MR. BALDWIN: I think your lordship should be in a position to assess with care the estimates that have been made of this timber.

THE COMMISSIONER: Well one group of cruisers may have gone in there and slept for a week, but that does not make any difference to me. I assume they went in there

and did what they believed to be a conscientious job. However, if you want to bring out the evidence, go ahead, but I am just intimating to you I do not think it has any value from my point of view, but if you do, go ahead.

MR. BALDWIN: Q: Now do you remember the question after the interruption?

A No, will you repeat the question.

Q How long would you say it would take two men to cruise the area if they did not have the aid of a planimetric map and a 10% cruise?

A That is a very difficult question to answer. I would not like to make an assessment of the exact time.

Q I realize now that his lordship has asked me the purpose of this question, it may place you in a slightly embarrassing position, but you don't know what Mr. Smith's evidence was. Would it be two weeks or over -- or two weeks or under two weeks?

A All I can say is -- I do not wish to give any estimate and all I can say is we do work in such and such a way and someone else does work in another way in the same line.

THE COMMISSIONER: It is not to be expected that any man might take the same time as you would, but as I intimated I did not think it was of any value, but Mr. Baldwin thought it was.

THE WITNESS: I think -- let me put it this way -- if you know before you go into an area, exactly where the timber is, you have less trouble locating yourself and getting started. I think anyone in the game would

admit that. It is obvious.

MR. BALDWIN: The case I put to you was where a planimetric map was not available to a cruiser.

A I would not like to assess the thing exactly.

Q All right. Now I will take you through this report, but I am afraid it will take a longer time than I expected it to take, but I think it is best. Page 6, block 617. Have you any comment to add to what you say is the condition of the timber?

A No.

Q What comment have you. You say the fir should run 70% [illegible]-- number 1 and 2 grades and the cedar 55%?

A Yes, that is our analysis of it.

Q And as to the fir -- what do you say as to the stands that run 70%, one and two? Is that above or below average grade?

A That is good fir.

Q It is good fir?

A Yes.

Q And what about the cedar?

A When you get over 50%, number one and two, you have good timber.

Q And the hemlock -- 35%. What do you say as to that?

A The hemlock?

Q Does your last remark also refer to hemlock?

A Well, the hemlock is also fair--as shown by the scale sheets there is some timber there in the hemlock.

Q Well, what do you say as to the grade?

A The hemlock --

Q It is 35% one and two for hemlock, is it the average or

worse than average or what?

A It is a little below average, the hemlock.

Q All right.

A You have to appreciate the situation there. Hemlock is used for two purposes -- pulp and saw timber whereas cedar and fir are used for saw timber, and hemlock usually runs that way.

Q Yes. A. These B.C. log grades are set up for saw timber.

Q What is the average grade for fir in Vancouver-- in 1944? A. 1944, 3% number one and 50% number 2.

Q And what is number 3?

A 45% -- it is/one and two in '42, and '44 -- that is the run of the market. 55%

Q And you have 70% here?

A Yes.

THE COMMISSIONER: Mr. Baldwin; this seems to be a most exhaustive report, and unless there are some features of it that you think I might not understand, is there any need, do you think, to have the witness accentuate the obvious.

MR. BALDWIN: No, my lord, if your lordship wishes me to do it in that manner. I think the report is quite clear to you.

THE COMMISSIONER: Well, you know the report and I do not, and on the face of it it seems to be quite an exhaustive report, and the witness has verified it and said it was an accurate report, and unless there are some features of it you think I might not under-

stand from my point of view, there is no need to go into detail unless you wish to.

MR.BALDWIN: Very well, my lord. I had intended to pick out the salient features . I had intended to do that earlier, but when your lordship said you had not read it --

THE COMMISSIONER: I shall have to read it later.

MR. BALDWIN: Q: Perhaps Mr. Schultz, you are the person in the best position to answer that. Does anything occur to you in the way of salient features of this report which should be emphasized to his lordship?

A I think the salient feature of the report is the average breakage of the adjacent lot and the average breakage of the Forest Industry as to th immature timber on the area.

Q You mean the area of logs as shown?

A In red -- on the map and the scale returns from their logging.

Q I see. A. And it also should be appreciated in these estimates, by anyone, that the resultant scale and royalty accounts depend on a lot of factors. For instance the market goes down and one logger might not get the same as another logger and there is a little flexibility in what may come off the area. What I am coming at, you might have an inventory of a merchantable timber on the area well done and within certain limits there is a certain limit of what you will get off, depending on the ability of the logger to

do a good job, and market conditions.

THE COMMISSIONER:

And the market conditions would have an effect on it -- if the market is down?

A In some conntries there are laws which define what must come off.

Q And there is no such law here?

A No, there is no such law here. And then there is the other question which is brought up, if you want to go into this -- land values. This area is a Crown granted area. It is a different type of tenure than most other timber areas. In other words 93% of forest land of British Columbia is held by the Crown, leaving 7% in private hands. And this particular tenure is a private holding, in which the owner owns the land as well as the timber. I don't know how far you want to go on that point.

Q Well, you have mentioned it.

A And Forest land has a real value, just as agricultural land, depending on its ability to grow products that can be sold for dollar value.

Q And your business is more than merely a cruiser, isn't it? A. We carry out a general--

Q What do you do?

A We make cruises, forest inventories, valuations and appraisals, logging plant designs, timber management work. We carry out timber management work for timber holdings.

Q By timber management what do you mean?

A We analyse the plant requirements of the operator and his holdings; report on whether his holdings are

sufficient, and advise him on what he should do; also due to recent legislation, section 32-A of the Forest Act we have been compiling forest management licenses.

Q Now what is the sequence of things in arriving at a valuation: say you are advising a buyer what he should pay for a property?

A You mean forest land or merchantable timber.

Q Well, in order to arrive at stumpage value, what do you do? A. Stumpage value?

Q Yes, the value of the timber on the stump?

A You work back from the log value. Across the line in the United States, the United States Forest Surveys work back from the product but ours is to work back from the log value and the species and the grade of the timber to come out, which depends on the inventory.

Q In other words, the first step you take is to get a forest inventory?

A Yes, and then you analyse the value according to present log prices of that timber in the water.

Q Yes. A. And then you work out the value of the entrance roads -- in other words the capital required and the value of the main roads to the edge of the timber, and you work out the value of the equipment required to log that timber most economically. You work out a depreciation rate for the equipment against the annual production to get the cost per thousand-- the relation of depreciation of equipment and the

cost per thousand of the main road divided by the total amount of timber to come out and that gives you the cost per thousand of the main road.

Q Now the size -- the quantity in volume on the main area, does that have an effect on the price?

A The total volume?

Q Yes. A. Yes, it would effect the depreciation cost. In other words, if you spend $100,000.00 to open up ten feet of timber it would be more than if you had a hundred million feet to take out.

Your third step is to take the operating cost, from which you get the residual value for stumpage and allow a fair profit for margin and risk and take off the cost of towing, and that is the stumpage value.

Q And have you done that with regard to this area?

A Yes, but not in this report.

Q It is not in this report?

A No.

Q Have you got your notes of the figures you have for this area?

THE COMMISSIONER: Well, what does your question relate to, Mr. Baldwin -- the figure you have for this area --?

MR. BALDWIN: I am trying to get from this witness now -- he has described very roughly speaking the method of arriving at stumpage value from the going log price, and he has done that in the case of this area and I am going to ask him to give your lordship

the figures.

THE COMMISSIONER: V ery good.

MR.BRAIDWOOD: My lord, may I take it that there is some other type of report that is now going to be filed.

THE COMMISSIONER: I don't know, we will see it when it comes. I presume it is another method of calculating standing timber.

MR. BRAIDWOOD: I have not seen this report, my lord.

THE COMMISSIONER: Nor have I.

MR. BRAIDWOOD: And I would ask my friend's question to be directed to dates rather than generalities.

THE COMMISSIONER: Yes, the answers will be more valuable to me if they are directed to dates than if they are to generalities.

MR. BALDWIN: I thank my learned friend for drawing it to my attention. It is 1944. I have a copy here.

THE COMMISSIONER: Will you describe what it is?

MR. BALDWIN: It is a stumpage appraisal of merchantable timber on the lots we are concerned with in 1944.

THE COMMISSIONER: Am I right in assuming you are putting this forward as another approach to the determination of market value in 1944.

MR. BALDWIN: Yes, my lord.

MR.BRAIDWOOD: I would like my objection to be taken into account on this. Here we find another method of bringing in evidence on a point that the Crown has had no opportunity to hear about prior to this.

THE COMMISSIONER: I appreciate your problem, and if later you think it necessary to seek an adjournment, you can renew your application and I am sure it will

be received sympathetically.

MR. BRAIDWOOD: Well, I wish to point out that the date of advertisement of this property was in August 1943.

THE COMMISSIONER: That was my impression. It was sold in August 1943.

MR. BRAIDWOOD: The submission of the Crown will be that it was in September of 1943 the sale took place. In other words we will take the position the sale was actually consummated in September 1943.

THE COMMISSIONER: That is , the Custodian was really bound by September 1943.

MR. BALDWIN: Your lordship will remember that was a subject of discussion earlier, and counsel intimated that was to be a matter of argument, and certainly there has been no evidence led to rebutt the date of the document.

THE COMMISSIONER: I will deal with that wan the time comes.

MR.BALDWIN: The date here is the 13th March,1944.

THE COMMISSIONER: Well, it is liable to make a great difference here. As I understand it there was a very rapidly rising market, not only in logs but also in standing timber, in the period '43 to '45.

MR. BALDWIN: Yes, I understand the trend was up.

THE COMMISSIONER: And it was going up after '45.

MR. BALDWIN: As you say, my lord, there was an upward trend.

THE COMMISSIONER: And the date is very important.

MR. BALDWIN: Does your lordship wish to follow the witness with this.

THE COMMISSIONER: Are you putting the document in?

MR. BALDWIN: I had not intended to put in any document,

my lord. I did not know that Mr. Schultz was going to prepare the thing in such concise form.

THE COMMISSIONER: Since you have it here I will follow it from the report. Just wait for a moment until I get this back, will you, Mr. Baldwin.

(REPORT MARKED Exhibit No. 1388/62)

MR. BALDWIN: I refer you to page one of your notes. In paragraph 1 you say, "Average log value at Howe Sound of the timber in question works out to $21.16 ". What is that based on? Where do you get your log values?

A The log values are from a submission by the B.C. Loggers Association, sowing the average selling price of logs from 1944 to 1947.

Q You hold in your hand Exhibit 12 in this Commission.

THE COMMISSIONER: Mr. Baldwin. Do I understand the contents of this document are related to the timber with which we are concerned here?

MR. BALDWIN: Yes, my lord, they are. This calculation briefly is the log values, and taking the growing log values in 1944, and taking the grades and species on the area, and treating them as logs, and then relating them back to the log prices.

THE COMMISSIONER: These are general figures, are thy no?

A No, you will notice on page 7 --

Q Page 7?

A. Yes, you will notice the derivation of the average log value -- the average prices of forest grades: for instance No. 1 fir is shown as $33.67 and that is the price on

Exhibit 12 for number 1 fir.

Q Yes, I follow you there, but it has no bearing on timber cut from the Deep Bay limits, except that it also touches on all timber cut in the province, is that not right?

A Except some number 1 fir -- some 9.93% in grade came from these limits and we use these grade percentages on page 7.

Q You had better go on and explain to me how it is related to Deep Bay timber, because if I am just getting a general description of log costs in 1944 I do not think this is the time to put it in.

A Well, I don't know whether it is time to put it in or not, my lord. Do you want me to explain this?

Q Yes, I would like to know how it is related to the Deep Bay timber?

A Well, it is an analysis. It is an analysis of the stumpage value of the Deep Bay timber, and to get an analysis you have to work back to the value of the product. And the first thing we did was to work out the value of the product, as you see on page 4, it works out to $33.67.

Q Well, it is not related to Deep Bay any more than any other timber?

A Oh yes -- a comparison of total value on page 7 is actually the percentage of the various species from the Forest document of the Deep Bay area.

Q I think I understand you now. These are general figures ?

". Not exactly. These are the average prices used in 1944 on the

market.

MR. BALDWIN: Q: On the general market?

A Yes, on the general market. That is the best intimation we can get on it, it may be a little low and it may be a little high, but that is the average according to the B.C.Loggers Association for No. 1 fir and so on.

Q And you are relating that to the grades shown to have been cut from the Deep Bay Operation?

A Yes, and the closest operation, that the timber on Deep Bay will run, is to take the cut that has come off the area, and the grade distribution, and use that, which we have done in that column.

Q Well, before we go into details, supposing you had been dealing with the question of sale and purchase of this timber in 1943 or '44, whenever it was sold, would it have been possible for you, or any other prospective purchaser, to have elicited this information from any person before determining the price. What would you say?

A Yes.

Q How would you start?

A We would get it from the B.C.Loggers Association--we would get the price of logs, and we know there are two ways in which you can get the grade run. One is by estimate in a standing procedure, --where it will run number 1 or 2, or 3. (2) you get all S & R. accounts of timber logged on these areas and find out the grade percent that has come out of it.

Q Is that a procedure that is generally adopted in the

purchase of a tract of timber?

A It is used by the Forest Surveys and we use it.

Q I am speaking of a purchaser seeking to buy timber. Is it a procedure that has been adopted --

A Yes.

Q -- by purchasers? A. Yes.

Q It is in general use, is it?

A I wouldn't say that. Some people don't bother with it. They don't know anything about Forest valuation, in fact they don't know that there is such a subject, mainly due to the fact the profession is young, but it is used by the government.

Q All right.

A And it is used by some of the larger companies in operation.

Q Very well. A. Well now, page 7, -- I think that is clear-- the way we derive the average value. Grade percent is the percentage of grades that have been extracted off the area from available S & R. accounts; and the percentage of species on the timber was arrived at by taking the percentage of species shown by the inventory, and adding it to the percentage of species cut to date to get the overall average of the timber cut. That is shown on page 6.

THE COMMISSIONER: You check me on this to make sure that I have understood you.

A Yes.

Q The report relate to current log prices in British Columbia in 1944 of timber cut from the Deep Bay limits?

A Yes, and we derive the limit value first, as shown on page 7. That is the overall picture. We took the

operation at 50 million feet (section 2, page 1) and decided that a liquidation of ten million feet per year had been cut off the Deep Bay operation-- to liquidate it in five years, because it would result in a most economical extraction for an operator and a more equitable valuation for a timber holder. We took that, after amlysing the present operation up there, and then I make this statement I want it understood there is no criticism meant. We found, when we found the equipment that they had --S. & R. six million per year -- it gave a top heavy depreciation. It is too high but some operators do that and so we set it up the way we thought it should be for valuation purposes. In other words because an operator has a surplus of equipment, and is paying a high depreciation charge on an area, that does not necessarily mean that the stumpage value should suffer through that setup.

THE COMMISSIONER: What you mean by that statement you have just made is, that they were not getting out that quantity of timber that they should have done?

A With the equipment they had, so that is our set up on page 3.

MR. BALDWIN:

Q. Well there might be many explanations for that, might there not?

A Yes, there might be, but we have to work it into our own thinking the best we can. I don't know the explanation.

Q Well, were there local factors that might have produced that result that they were not getting the production

they should have got with the equipment.

A Well for instance, I noticed in analysing it there are two heavy deisel logging trucks on the operation worth about $20,000 apiece, that is $40,000.00 and there is eight and a half miles road -- and that is 8,000 per load-- that is 80,000 a day -- and then there is the yarding equipment. There is only one cold deck, and the yarding equipment is not in line with the hauling equipment, and that may have something to do with it.

MR. BRAIDWOOD: I don't want to interrupt my learned friend and the witness in his examination, but this examination relates to the witness's view of what the equipment is.

THE COMMISSIONER: It relates to the witness's view of what should be done by a competent operation. Is that not it? A. No, no, it has to do with what the capital cost of equipment should be on the job in order to get a price per thousand of appreciation to apply.

MR. BRAIDWOOD: But the witness was referring to some specific pieces of equipment.

THE COMMISSIONER: That was an answer to my question in order to explain his previous answer.

THE WITNESS: I want that to be very clear. I am not critisising anybody.

Q What it comes down to is this, is it not: You figure that this timber should have been operated under certain conditions, which if they had been perfect, or as good as you think they should have been,

then their cost would have been less and their timber would have been of greater value. Is that not what it comes down to?

A Yes. Well, there is a yardstick it goes by, and I think you will see this roadway, when I mention it -- a capital of $20.00 per thousand of annual production is, you might say, a line that most operators would try -- they would not want to go over that . The reason is: interest at 5% on 20,000 would be one dollar and they would not want to pay more than per capita. That is how that is. That is the thinking behind that.

Q Yes, Mr. Baldwin.

MR. BALDWIN: Now, is there anything else you wish to say on that? A. Another point that should be brought out in considering this appraisal, or any appraisal for stumpage is this: an analysis can be made that guides buyer and seller, or could be set as an upset price by the government. The price depends on the supply and demand and sometimes bargaining but because this is stumpage, it is based on an analysis which gives a guide.

Q I don't know that the witness need go through this in detail unless you wish him to. I have no doubt my friend will go through the details of it in cross-examination.

THE COMMISSIONER: I do not suppose you can count on that, so you had better make up your mind how far you want him to go.

THE WITNESS: Page 2 is the stumpage analysis and the values comes out.

MR. BALDWIN: Q; And these costs that you have there on page 2, are all of what year?

A 1944. These things -- I don't know if you want me to go into each figure, but they have all been thought out as reasonably as possible. For instance the Workmens' Compensation is shown as 80 cents and that is based on the considered average wage of $8.00 per thousand feet per man per day and a compensation rate of 80 cents. The road construction cost is another example -- sixty cents per thousand and that is estimated at 6,000 per mile. I am not referring in here to the road construction --this is in the timber. The road approach to the timber is in the depreciation of 2.06. Now this 60 cents -- the timber averages 30,000 to the acre, and we consider that one road for each half mile -- or ten million feet wper mile would be the road distribution and one mile would be six thousand and a distrubtion on 10 million would be 60 cents and that is how the whole thing has been worked out.

Q What about booming cost.- fifty cents?

A Well, a million a month -- there is $500.00 a month. That covers a boom man and chains.

Q Was that the average cost in 1944 or what was it?

A Yes, that is close to the average cost of other operations in 1944, but that is based on the actual operation -- considering the conditions they operated under and it worked out in that way. Oh, probably I should explain this. We have a residual stumpage value of $4.96.

THE COMMISSIONER: You are reading from where?

A Page 2. "indicated stumpage value 4.96, and then we take that 4.96, which is the value of this timber, if cut, as a timber sale and the seller got 4.96 as the timber was cut over the next five years, and we bring that down to present worth in 1944 by discounting five equal payments at 5%, 4.30, which indicates the cash value.

MR. BALDWIN: Q. Cash value.

A The lump sum. You see that is discounted and there is another point profit and risk is considered to be from 15 to 25 % which has a bearing on it and we took the low value on it because the timber was exportable. In other words, the risk part of it is mainly in the market. This timber had two markets whereas the average operation has only one. True there was a ban on at that time but one would not expect the ban to go on for ever, and then it was connected with a mill, or group of mills that would guarantee the sale of the products. And that is why we took the low value. Some might consider it to be higher, but that is the basis of that.

In other words, just to summarize the thing, it is simply taking the value of the product, reducing the cost, and giving a fair margin for risk and giving a fair stumpage value and discounting that stumpage value.

THE COMMISSIONER: Do you know what the going rate on E. & N. timber was in 1944?

MR. BALDWIN: Do you mean the original timber of the E. & N.?

THE Commissioner: Well if he wants to differentiate he can my so. Do you know what E. & N. were selling timber for in 1944 on a stumpage basis?

A No, I could not define any special sales.

Q Would It be wrong in saying E. & N. were selling at that time timber on a stumpage basis of $2.50 to $3.00?

A No, that is correct, they were selling it low.

Q Do you know anything about the alienated lands of the E. & N. what the land was selling on the stumpage basis?

A I don't think they differentiated it.

Q I am not talking now of the E. & N. Supposing I had bought from the E. & N. an area of timberland and thereby became entitled to log the timber and then proceeded to sell it, what was the going price demanded by a person in my position for E. & N. stumpage? A. I haven't investigated the average prices at that time.

Q Was there any difference between the price the E. & N. demanded and were getting and alienated land owners were getting to your knowledge?

A No, it would depend a lot on the men who was the alienated owner, I think. I don't want to mention names, but I know in some cases it would be hard to buy it and in other cases it would be very low.

Q Yes, I see.

MR. BALDWIN: Q: Are you familiar with the timber in this neighborhood, quite close to this, which was sold

to Allison by McGarigal?

A Yes, I examined that timber once. I examined that timber I think, early in 1945 or late '44.

MR. BRAIDWOOD: My lord, if we are going to call evidence as to this, I want to put in an objection.

THE COMMISSIONER: I think it is a proper question, I will allow it.

MR. BALDWIN: What do you say as to the McGarrows stand as compared with this stand?

A I don't know whether I am in a position to say - or speak on that. I am engaged by a client to look at a piece of timber and I am not sure that I am at liberty to give out that information, am I?

Q I don't mean the price -- the quality of the timber. Do you feel it would be a breach on your part -- a professional breach of conduct if you disclosed that information?

A Well, I would prefer not to. I have said this area here is good timber and we have the percentages of grades in it.

Q Well, you don't want to tell us what you think of the McGarigal timber.

THE COMMISSIONER: You did not ask him that, you asked him how it compared with this timber. Is it as good or better or poorer?

A It wasn't as good as this timber.

Q It was not as good?

A No.

Q Do you want to pursue that further?

MR. BALDWIN: No, my lord, I don't think I need to.

THE COMMISSIONER: I think there was some evidence given a year ago, as to what the McGarigal timber was sold for?

MR. BALDWIN: Yes, I believe there is some.

MR. BALDWIN: Q: Do you know any comparable sales in 1944?

A Any sales?

Q Yes, any comparable sales of timber in or around 1944?

A Yes.

Q And do you know the stumpage paid?

A Yes, it ranged around $2.50 to $3.00 less royalty. There is no royalty. I think I am right in that. There are a lot of records on that year of the annual timber sales.

Q Well the Commissioner has that, but I am speaking of private sales.

A Well, the Royston timber was sold. That was sold in 1944, wasn't it?

Q I am not sure.

A I think that was sold in 1944 or early in 1945.

Q Well do you know the price?

A It is hard to recollect all these things.

THE COMMISSIONER: Well, if he does not know, we have had evidence on that.

THE WITNESS: I think it was around 475.

MR. BALDWIN: Q: Was that the timber bought by Mr. Brown?

A Yes.

Q Well, we had evidence on it. Is there anything I may have overlooked that you think the Commissioner should be made aware of as to the value or quantities of the timber on these limits? A. No. the quantity is

in the report and the indicated stumpage value is made out and the way the work was done has been explained and the question of tenure has been brought out and that this is Crown granted land. I think that covers the picture.

THE COMMISSIONER: Mr. Braidwood, are you likely to be some time with this witness?

MR. BRAIDWOO: Well, I might tell your lordship now that I am not prepared to go ahead at all under these conditions, owing to the fact that all this new material has only been given to me today, and naturally I have to consider my position -- no, I would not be in a position to go ahead now.

THE COMMISSIONER: The situation has not been changed very much. We knew Mr. Schultz was going to make a cruise, but would you like an opportunity to consult with your advisers rather than proceed with the cross-examination now?

MR. BRAIDWOOD: Yes, before I go on with the cross-examination I would like to look into Exhibit 62.

THE COMMISSIONER: Well then, we will adjourn until ten tomorrow.

MR. BRAIDWOOD: I was just wondering if we could get all the people I needed here. Would your lordship make it 10.30.

THE COMMISSIONER: I was hopeful I was going to finish the argument as well as the evidence by the end of the week.

MR. BRAIDWOOD: Well, for your information my argument will not go beyond half a day at the most.

MR. BALDWIN: Well, I don't think Mr. Norris will be more

than that, perhaps less.

THE COMMISSIONER: Very well, we will adjourn until 10.30, but I cannot tell if it will be in this court room or not. If you consult Miss White, she will be able to tell you.

(PROCEEDINGS ADJOURNED TO NOVEMBER 16, 1949 AT 10.30 A.M.)

I hereby certify the foregoing
be a true and accurate report of
the same
E. Blyth
Deputy Official Stenographer

Norris T Baldwin

Aim 1388
Deep Bay Logging Co.
November 17th 1949.
TPH.....f

C.D.Schultz,
Direct.

Vancouver, B.C.

November 17th 1949

10.30 a.m.

T.D.B. BRAIDWOOD ESQ., and
J. CAMPBELL ESQ., appearing for the Dominion Government.

R. P. BALDWIN ESQ., appearing for the Claimant.

THE COMMISSIONER: Yes, Mr. Baldwin? You had finished with the witness?

MR.BALDWIN: My direct examination is finished, yes.

THE COMMISSIONER: Will you resume the stand, Mr. Schultz, please.

CHARLES D. SCHULTZ, resumed the stand, testified further as follows

MR,BRAIDWOOD: My lord, just before I resume with

M Mr.Schultz, I would like to say that yesterday your lordship was kind enough to indicate that you would favourably consider the Crown's position, because of this new evidence, which was only presented to us yesterday, but I am pleased to say, my lord, that by dint of a great deal of night work on the part of some of our experts we have come to a position where we can continue rather than hold up the matter, although I do take the position still that I took yesterday, that I think this evidence might very conveniently have been produced to us at an earlier date, to facilitate matters.

THE COMMISSIONER: Before you start, Mr. Braidwood I have had an opportunity of making a cursory examination

of Mr. Schultzs report, and I want to make sure that I understand him.

Q Mr. Schultz, I have been trying to understand what your total volume shows, and turning to the first of the inventories, which is found at page 26, am I to assume that the figure at the bottom of the page of 33,301,000 feet is your estimate of the total merchantable timber on those blocks?

A 33,300,000 yes my lord, 12 inches D.B.H. and over; but we mentioned previously that utilization on the operation was, from our investigation, 18 inches and over.

Q Do you say that the timber 12 inches to 18 inches should not be taken into account then?

A That is a question that depends on the degree of utilization that is expected. That would be a question more or less up to your decision.

Q Oh no, it is not. You are the expert. Is it economical to cut a diameter 12 inches to 18 inches?

MR.BRAIDWOOD: My lord, I don't wish to interrupt your lordship, but a considerable amount of the controversy here is as to the date at which certain timber is economical in its utilization, or not. I wonder if your lordship could ask the witness as to dates.

THE COMMISSIONER: I will leave that to you. All I am seeking now, is to make sure I understand the report.

THE WITNESS: Yes. The way I look at it, you will notice 12 to 18 inches runs 10%, that is 3,000,000 feet.

Q Yes.

A In the overall total it is a small proportion.

Q Yes.

A And on the question of whether anyone -- well, I don't know what the legal position of the claimant is.

Q You are not asked to determine that. All I want to know is from a practical point of view do you consider that timber 12 to 18 inches is economically useful to log?

A During that period some operators were utilising 12 to 18 inches, and others weren't. It more or less depended on the management policy.

Q I see. Then is that volume of 29,999,000 what you consider to be the total volume of the entire area that we have under consideration?

A That is the total volume, 18 inches and over, of merchantable standing timber. There is other timber felled and bucked.

Q Yes. I notice the felled and bucked is shown on page 17, referring to block 274. You show four and a half million for the total felled and bucked; four million cold-decked and a total of four ~~hundred~~ million, five hundred thousand. That, I take it, is in addition to the timber that you have estimated and included in your twenty nine million figure, is that right?

A Not included my lord. There is a summary of this at page 5. On page 5 you will see, sir, I have twenty nine million nine hundred and ninety nine thousand -- that figure appears and there are various other additions to make a total of some forty million, more or less, and then in section 4 the timber extracted previous to the period of the examination was added, to bring the

total to fifty six million.

Q Yes, I see. That was my difficulty, I did not understand what these figures meant on page 5. So it is included in your twenty nine million figure as timber shown on 504, is it not? On pages 9 and 10 of your Report you show the estimated timber cut on 504 at 8,032,000 feet. How do you get that additional four hundred thousand.feet. Where does it come from,?

A You will note my lord, at the bottom of page 10, there are sixteen acres that were not examined in the field examination. It is an isolated area and there is 400,000 reported there.

Q Is 400,000 feet, situated in an area isolated as the timber is, economical to take out?

A Excuse me a moment, my lord, please. Thatis a questionable patch my lord.

Q A which?

A A questionable area, as far as economical extraction is concerned. It would depend on what is to the west, and whether there was any development along the Tsable River.

On the question of whether anyone would go in there and fix up these grades, just to get that small patch of 400,000 is a question. On the other hand we have had many examples of these areas being left, after logging, and then at some later date somebody takes them over.

Q How about the standing timber on block 76 of four and ahalf million. That is referred to I think at page 17.

A Yes. I considered or we considered that area accessible, because there is adjacent merchantable timber, you will notice, not coloured, and that general area is still opened up by logging grades.

Q You say that is accessible and economical to log?

A In our considered opinion, it was.

Q Then of course the felled and bucked. Did you examine that to know what condition it was in?

A Yes, my lord. It was in good condition. Actually, this is the advance inventory, at the time of the examination of the Tsable river logging, felled and bucked. They probably have that out by now. That is the yellow area on the map.

Q That could have been timber that was felled and bucked by the Deep Bay Company or some other outfit?

A No, it is recent felled and bucked.

Q It is recent felled and bucked?

A Yes, it is felled and bucked, carried on in the process of the present operations.

Q It has been felled and bucked by subsequent operators to the Deep Bay?

A It is 1948, felled and bucked.

Q That makes your total -- where do you get the volume logged at sixteen million?

A That came from the S&R accounts.

Q So your overall estimate is 56,125,000 of which this four and a half million may be so isolated as to be questionable logging?

A That is possible, sir.

Q In that figure you do not take into account any of the

immature timber referred to on pages 20 to 22?

A No sir.

Q Is immature timber such as that ever taken into account by a logging operator, when he is proposing to buy a stand of timber?

A I would say in the last five years, yes. In other words, in British Columbia we have reached a point where we are just beginning to become forest conscious, and in the last five years there have been numerous exchanges of Crown granted young growth, and even bare log lands that were purchased by concerns interested in logging British Columbia operations.

Q That is a development of the last five years, is it not?

A About the last five or six years.

Q It was not recognized prior to 1944 or 1945.

A Well, generally speaking, yes. There are exceptions. For instance, some companies have never left a Crown granted area go back. They have held every acre.

I would say, as an example, that I think that is the policy of Canadian Western (Comox) for instance, and there are others that have had that policy for years, but generally speaking it is only over the last five years or so.

THE COMMISSIONER: That clears up the matters in which I was in doubt. Thank you.

MR.BALDWIN: Just one point arising from your examination of the witness, my lord. Perhaps I might clarify it with a further question of him.

THE COMMISSIONER: You prefer to do it now, or wait until after cross examination for your re-examination?

MR.BALDWIN: I thought for your lordship's notes it might be more convenient now.

MR.BRAIDWOOD: It is all right with me, my lord.

THE COMMISSIONER: Very well.

MR.BALDWIN:Q: Now Mr. Schultz, this figure to which his lordship has referred on page 5, is after making the deductions, isn't it, for breakage?

A That is right. That is net.

THE COMMISSIONER: That is the net recoverable merchantable timber. Thatis quite clear from the report. All right, Mr. Braidwood.

CROSS-EXAMINATION BY MR. BRAIDWOOD:

Q Mr. Schultz, I take it you yourself worked on the preparation of the two reports which have been filed as exhibits 61 and 62?

A Yes.

Q And you were on the property personally, I take it?

A Yes.

Q With a number of your men?

A That is right.

Q Can you tell me, Mr. Schultz, what is the difference between a forest inventory and a forest cruise?

A A cruise is a term that is applied to the volumetric survey of merchantable timber, whereas a forest inventory takes in all forest values. I mean, there may be, for instance, logged land and immature timber or any other things that there may be -- for instance a forest management-plan -- a preparation for forest management-plan with the Government for the execution of section 32a

of the Forestry Act that would require a forest inventory.

Q The legislation is the "Forest Management Act" I believe it is called?

A Forest Management Licence.

Q The Forest Management Licence Act is relatively modern?

A It is modern in British Columbia. It is hundreds of years old in Europe.

Q But it is modern in British Columbia?

A Yes, that's right.

Q Passed about 1946, wasn't it?

A Yes, but the Forest Economics Division of the Forest Service have been carrying on forest inventories since 1925, to develop the forest industry of British Columbia.

Q Would I be correct in saying that as far as private industry is concerned the forest inventory is namely used as a means of developing forest management-plans?

A Not necessarily. It is recognized as of real value today. For instance, when making a forest inventory at the present time on the Squashi River, we are making a forest inventory to settle the value of the land to be flooded by the new dam.

Q I see. You told my learned friend that British Columbia has only in the last few years developed what you might call a forward forest policy, is that correct, or becoming aware of forest economics?

A Yes, since the Sloan Commission.

Q Since the Sloan Commission.

A Yes.

Q And is that policy of a more forward looking development in forest practice hard to sell to the forest industry, as a whole? I mean, to business people inthe trade?

A No, no. We haven't had a legislative set-up that would allow for real sound forestry and that is one of the reasons why there was the Sloan Commission. Foresters have known this for many years in many divisions of Industry, but one of the simple blocks is the fact the Crown has 93 percent of the land and a lot of people don't want to invest in forestry while they can lease land.

Q Mr. Schultz, I believe from 1940 to 1944 you were employed as a logging engineer with the Bloedel Logging Company, is that not correct?

A That is correct.

Q And that period of employment was continuous was it, during this time?

A Yes.

Q And I take it therefore, that during that period of time your knowledge of the logging industry and its practices would be largely confined to the operations of the Bloedel firm?

A Yes, naturally.

Q Are you aware of any purchases that the Bloedel people made in 1943, from the Custodian?

A No.

Q You don't know of any. Then I suggest to you you were not advised by your principals at that time of all the operations they were in, as to the buying of timber?

A Well, the Bloedel operation was divided into zones. I

had a certain division. I was at the Menzies Bay operation.

Q I am suggesting to you that during 1943 the Bloedel people did buy some timber from the Custodian, but you didn't know anything about it?

A No, I didn't know anything about it. I can't remember it, anyway.

Q Since you didn't know anything about it, you wouldn't know at what price it was bought,of course?

A No.

Q And during the period of 1943 you were not acting as a consultant generally to the trade?

A No.

Q Now you were engaged where, by the Bloedel Company did you -- what operation?

A The Menzies Bay Operation, mainly above Campbell River, and I also was on the West Coast at Great Central Lake, for a period.

Q You had a fairly wide knowledge of the operation of your company during that period of time?

A As to development. For instance, a proposed purchase would be examined and appraised, and submitted, but the timber acquirement, that is the actual deal or purchase wasn't handled by the forest Engineering Division.

Q I take it you knew in a fairly general way the conduct and operation of your particular division?

A Yes, that was my business.

Q Now then, would you not agree with me that in the period of 1943 that logging people were experiencing

very considerable difficulty, from a production point of view, arising from shortages of material and labour?

A Yes. In 1943 we had some difficulty along those lines.

Q And Bloedel was a continuing and active operation, wasn't it?

A Yes.

Q A long established operation. So I take it that very likely if anybody could get labour and materials they would be one of the group of companies who could get it?

A Well I think the actual fact was with the large companies or the whole group of large companies, that they had more difficulty getting labour. They probably got supplies better than small companies, but the average logger in those days seemed to prefer to work for the small family logger, and that was in the period of union activity, too, and probably the large company had the greatest difficulty, as far as labour was concerned.

Q And what would be your opinion as to an entirely new logging enterprise starting up, as to the possib--ilities of obtaining materials to get started with?

A They would have more difficulty, probably, than an established operation.

Q And new equipment would be very difficult to get?

A Yes.

Q I suppose some of those things were under quota, like gasoline and the like?

A Yes.

Q And even the purchase of new vehicles was restricted, I believe, was it not?

A It was. While there were difficulties in those periods, still a lot of operators were going into business at the same time.

THE COMMISSIONER:Q: Those, I take it, would be the small operators?

A Yes. There was great production. Production was going up, and more people were interested in logging, and went into it because of prices.

MR.BRAIDWOOD:Q: You say many of the small over night operators were successful?

A Some made a lot of money.

Q On a quick operation?

A Well, they are still going today.

THE COMMISSIONER:Q: Up until what time, Mr. Schultz, were you in the employ of Bloedel Company?

A I left at the end of 1944, to start my own practice.

MR.BRAIDWOOD:Q: I want to turn your attention for a few minutes to your timber inventory which is exhibit 61, Mr. Schultz.

A Yes.

Q You have told us the difference between an inventory and a cruise, in general terms. How did you come to fix upon the year 1945 for making your inventory, Mr. Schultz?

A You mean why we reduced this to 1945, as far as adding the S& R accounts?

Q Yes? A: We were requested to do that.

Q Were you advised of the date of sale, of these properties.

A I think we were, but we were not concerned with that, at that time.

Q There is no suggestion in your mind that the date of sale was in 1945.

THE COMMISSIONER: I do not suppose Mr. Schultz knows.

MR.BRAIDWOOD:Q: Then your inventory, Mr. Schultz, is made on certain basic principles, is it not?

A That is correct.

Q And I think you told us in your examination in chief yesterday afternoon that you had decided to make the inventory in the manner in which it was made, if I may quote your language which I wrote down at the time, "because this was the way to do it for this purpose." I would like you to tell the Court what your understanding of the purpose was?

A We have had some experience in presenting information of this kind to a court, and we have found from experience that to date the court appears to wish information of this type presented, including all basic principles.

In other words, the job is done by measurement, as much as possible, as stated in the method of examination, and there are two factors that are difficult to measure and are left to estimate, and that is your deductions for breakage mand cull.

Actually these forms at the back were printed. We don't use those forms for our own purposes, we just use them for cases that have to be supported by measurement.

Q So I take it your reference to a purpose yesterday was

merely to give the Court as wide information as you could? A: That is correct.

Q Now, you referred his lordship yesterday, I believe, to the use of aerial photographs?

A Yes.

Q Which are attached to the back of your report in the folder?

A Yes. No, the vertical air photographs,-those are just obliques that were taken. The vertical air photographs taken for the compilation of this are kept in our office and you can have them, if you wish them.

Q I suggest to you the use of the aerial photograph is a relatively new thing in forest practise?

A It is relatively new? Yes, but we have used them. The first time they were used in British Columbia was in the inventory of the Nimpkish Forest, which I conducted when I was with the Forest Service which was in 1933 or 1934.

Q And I suggest to you, also, that the use of an aerial photograph, and I am not talking now of the obliques but the other photographs that you have, are useful to you in your forest estimate as a guide or an indication as to the general nature of things, in the making of a cruise or an inventory?

A They are useful for two purposes; one as a general guide and two to definitely tie down and ascertain boundaries of various types.

In other words, you can tie down the boundary between logged and mature timber as close planimetrically, with an air photograph, with certain control, as you

can in the field with instruments and a chain.

Q Now you have told us with the aerial survey that it is useful, but I think you will agree it is only an adjunct to ground measurement?

A You need certain ground measurement to exercise your aerial survey.

Q I suggest to you the aerial survey isn't generally acceptable, from the point of xxx view of estimating timber quantity and specie.

A No, it is a means to an end. Mind you, there are some foresters in eastern Canada who say they can make estimates from aerial photographs. We don't agree with that, we make tallies, but it is a very important aid to carrying out our work.

Q You and I are not very far apart. I am trying to suggest to you you can't make a proper estimate from an aerial photograph alone, but it is a guide and provides these other two aids you have already told his lordship.

A Yes.

Q Therefore if you are to get a proper estimate of the timber content and its type and quality, there must be ground measurement and observation?

A Absolutely.

Q And I take it that these timber surveys by aerial photograph are just coming into use in British Columbia?

A As I have mentioned, they have been used by the Government for some time and are now being used for private use quite extensively.

Q Private companies such as Aero Surveys and others who

do this work are all fairly new organizations.

A Yes, but we have used RCAF photographs for years. It is the air photograph that is the important point, not who does the flying.

Q I think you would also agree with me on this, would you not, that from the point of view of interpreting whatever information there is that is obtained from an aerial photograph the interpretation must be done by an expert?

A The interpretation must be done by an expert, that is definitely so.

Q And the average person, indeed, the average logger, could not get anything from such a photograph, is that not correct?

A That is correct.

Q I notice, Mr. Schultz, that you haven't provided the Commission in your inventory with a topographical map of this area?

A No, we haven't.

Q Don't you think that might be of some very definite assistance to the Commissioner in finding out the terrain and the availability of the timber, and the possible cost of construction of roads and railways.

A Not so much in this case, because it is an extensive area and it is relatively speaking an easy country.

Q In point of fact, there are some high grades there, aren't there?

A No, not very bad. They are relatively easy.

Q My recollection of the evidence is there are some hard grades and some grades which are not very suitable

to a railraod operation, for example?

A Well you could put a railroad operation in, but the number of switch backs you would have toput in makes the truck operation the more economical.

Q My understanding of the evidence is there would be a great many switch backs insome parts of this area?

A Yes. We made a report on that, actually. You see, the truck is much more elastic.

A railroad can go up to about 7 percent and a truck with good operation can go up to about say 15. Some are constructed up to 20, but they are in real steep grades, hard for building truck roads.

Q You think this is a truck operation, don't you?

A I think you would make more money in the truck operation with it. That is, on the balance that is being logged now.

Q What is the situation with regard to ravines, rivers and the like?

A There are two main streams here that have ravines in them. Wilfred Creek has one.

Q There are some bridging problems in getting the timber out?

A Not very serious. You can truck down with a truck and across.

Q I want to refer you again to your cruise and some of the figures in it, or, rather, your inventory.

THE COMMISSIONER:Q: Just before you leave that topographical feature, would I be xright in saying the Deep Bay area cannot be economically operated by a railway, but it is essentially a truck operation, or is that putting it

too strongly?

A I think it would be better. The timber referred to which is the balance, not the stuff down here (indicating) would be more economically operated by a truck operation.

Q It had been operated heretofore as a rail operation?

A Yes, thatis right.

Q So a truck operation would mean you would have to scrap the railway and the installation of rails?

A Well, there are two ways that that is done. Some operators who have a railway will build truck feeders and leave the entire road in and bring the logs in on the car. Others scrap it. There are examples, for instance with the Oak River Timber Company. They have their main line and they changed to trucks for the mare difficult or steeper grounds, and then they dump all their logs in the lake and then put them on their main line road.

Q They have a big area of timber, but here we are concerned with a small area?

A Yes.

Q Would it have been economically possible to carry out this operation on the basis that the Oak River Company did, for instance? Perhaps I had better change the term "possible" to "practical".

A Yes. That would depend a lot on the condition of the railway and its grades, which I have no information on.

You might say if you had a well operated railroad, one would be inclined to try and use it and re-route, whereas if the equipment had been depreciated

over many years and wasn't in first class shape, then consideration would be given to removing it and putting a truck line right through.

THE COMMISSIONER: Yes, thank you.

MR.BRAIDWOOD:Q: Now Mr. Schultz, I have extracted some totals here, and I think they are accurate, from your inventory. These are your estimates, as I understand them of timber standing and timber felled and bucked on certain blocks by number. There are four that I am interested in.

A Can you refer me to them?

Q Block 263. I think your estimate there is 1,192,000 feet standing and 260,000 of felled and bucked?

A Block 263?

THE COMMISSIONER: It is page 11 or 12.

MR.BRAIDWOOD: Actually it is page 12, my lord, under 18 inches.

THE COMMISSIONER:Q: That is the final figure?

A 18 inches and over, 1,192,000.

MR.BRAIDWOOD: Yes, and on block 504, 7,513,000. That is at page 8.

THE COMMISSIONER: I have 8,032,000.

MR.BRAIDWOOD: It is 7,913,000. That is my figure. It might be a typographical error.

A It is plus 400,000 at the bottom. That is the one we spoke of before.

Q 7,913,000, in all?

A 7,513,000. It makes a total of 7,913,000 you are correct.

Q And block 276, that is at page 17, there is a total of

4,500,000 feet.

A 276? Yes, 4,500,000.

Q The last one is block 274 which is at page 15, 361,000.

A 361,000 at page 16.

Q Now I have taken all the felled and bucked to give me the totals I wish to work with and on those four blocks I estimate, according to your figures, there is standing 13,966,000, and felled and bucked 3,240,000, making a total of 17,206,000. Would that be approximately right without adding them up.

THE COMMISSIONER: What is your figure again?

MR.BRAIDWOOD: 17,206,000. Standing and felled and bucked on these four parcels, my lord.

THE WITNESS: Which four are those, now.?

Q 263, 504, 276 and 271.

A That seems to add up. It is just a matter of adding.

THE COMMISSIONER: Seventeen million?

MR.BRAIDWOOD: 17,206,000 on those four parcels. That includes standing and felled and bucked, my lord.

THE WITNESS: It has felled and bucked in 504, has it?

Q Yes, 504. You will find 2,504,000 isn't it?

A Where is that?

THE COMMISSIONER: It is at pages 9 and 10, 504.

MR.BRAIDWOOD: Thefelled and bucked are on page 17, my lord. There is a summary there.

THE COMMISSIONER: Yes.

A You took 2,840,000 did you say? That is the figure there, yes.

Q And on 263 there are 260,000?

A That's right.

Q And on 274 there is 140,000?

A Yes.

Q That gives me my total of 17,200,000 on all these four parcels. Now do these figures include any logs that might have been put into the water from these four parcels in the period 1945 to 1948?

A No. It is the standing timber andfelled and bucked on the ground.

Q I point out at page 21 of your survey we see that out of 555 acres logged since September 1945, 288 acres, or 52 percent of the logging done was done on these four blocks?

A Page 21?

Q Yes.

A Would you mind repeating that, please.

Q That out of 555 acres logged since September 1945, --

A Logged since September 1945? Yes.

Q -- that 288 acres of that, or 52 percent, was logged out of blocks 263, 504, 276 and 274.?

A Well, I haven't added them up, but I imagine that is so.

Q In other words out of those four parcels we get 52 percent of the logging done, since September 1945, is that correct? It is about correct, isn't it?

A Well, in order to check you on all these things, I suppose I should add them up.

Q I am not trying to fool you.

A That is the answer, then, if you have added them correctly.

Q If there is an error, it is an error in arithmetic. Now looking at your map ofthose areas, on the basis of what

we have been discussing, now would you agree with me that these areas represent patches which had been left by Kagetsu because they were not economically accessible for taking out on his logging operation?

A The area in 504 shown in red logged since 1945 is in practically flat land, and if Kagestsu had x chosen to he could have logged with the railroad.

The area in 274 and 566 -- well as a matter of fact he had his railroad up to and close to where you see that branch in there (indicating).

Q In which block is that?

A In block 274.

THE COMMISSIONER:

Q Where does 274 lie in relation to 276, on this map?

A It is north west, sir.

Q Yes, I see it.

A He had his railroad up near where you see the two branches there. He could have logged some of that, and in my opinion he would either have had to go into extensive switch-backs or start a truck road or change into a trucking operation.

Q Is it right to say, then, that a considerable part of this logging that was done between 1945 and 1948 was done in relation to kai timber that was not economically possible for Kagestsu to take out by railroad?

A I would say it looks like about one third is on the steep side hill here (indicating). I don't know whether it would be fair to say that it would be uneconomical to take it out. There are a number of things he could have done.

MR.BRAIDWOOD:Q: Before you go ahead, I should suggest the railroad had been taken out of 504 before the Custodian took it over. Would that influence what you have just told his lordship now?

A Well, naturally you would go for trucks, if it had been taken out.

THE COMMISSIONER:Q: I did not hear you.

A If the railroad had been taken out one would go by truck, because it would be cheaper.

MR.BRAIDWOOD:Q: There would have to be a road built, wouldn't there?

A Yes.

Q You weretelling his lordship, when I interrupted you, as to what your answer was as to this question I posed, as to whether those three patches were not economical to log and Kagestsu had passed them by.

A I don't think that is the actual fact. That might be misleading, you see. For instance, looking at the plan, that is a pretty big patch (indicating). You could hardly term that a patch, could you? It is a concentrated area, isn't it? 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 by the railroad operation.

Q Can you suggest any reason why it wasn't logged by the railroad operation?

A Yes. He has built his one main line up here (indicating) and logged on each side of his main line and gone ahead and to log this area in 504 he would have to have a branch line and he left it, seemingly, as anyone

would have left it. He left it until he built a branch line.

Q But in this instance I suggest to you he didn't build a branch line, but pulled the railroad out?

A Did Kagestsu pull it out?

Q I am suggesting the evidence is the line had been pulled out when the Custodian took over. I am not suggesting who took it out.

A If the railroad was out and you had to build a road, you would put in a truck line there.

Q Have we dealt with all the areas that I have discussed or would you care to -- this is 504?

A 504.

Q And 263. Now I asked you about that.

A 263, yes. You see, looking back at the thing and changing it back to the picture that existed before this logging which has occurred since 1944, this thing is really two logging units, one comprising the area logged since 1944 in red and green and yellow, felled and bucked.

That is one unit, and over here in near 274 you have another large timber unit. So I think your term "patches" doesn't give the right picture. Now, what was the other question?

Q I was asking you specifically with relation to 263. If you don't want to use the term"patches" , would you give your opinion as to whether or not Kagestsu had by-passed that one?

A It is a body of timber. He had by-passed it by his main road, that is correct. His main road went by it.

Q Yes. Now then, on 276, which is down below in the

x centre, my lord --

THE COMMISSIONER: Yes, I see it.

A 276?

MR.BRAIDWOOD:Q: Yes. What have you to say about that, with regard to the general questions that I have been posing to you, as to whether or not this was an area that had been by-passed too for economic reasons?

A Let's see now. That is an area that had been left, that is correct. Yes, it had been left.

Q Now then, going up to 274 which is back up again under 504 --

A Yes.

Q -- what have you to say as to that, as to it having been by-passed?

THE COMMISSIONER: Q: Just before you answer that, is the only standing x timber left on 274 that small piece at the extreme end?

MR.BRAIDWOOD: Yes. There are 260,000 feet according to Mr. Schultz' inventory. It is the smallest of the groups that I have been dealing with, my lord.

Q What would you have to say to that, as to it having been by-passed?

A Well, I think that one looks as if -- you can see the construction here (indicating) and also the old grades. What we are trying to do is to think of what was in someone's mind at the time, and it looks to me as if the operation was carried on and he had started south. This ground (indicating) is higher, and I think this area in the south west corner is the

natural result of an operation. That is his next step, to take that out, and work into it, because his grades show they are approaching this area(indicating) in this large body.

Q But they have been right through that area, haven't they?

A They have been right through it? He has taken off this piece here (indicating). He has logged this, (indicating). Here is this old grade,(indicating) here is his next branch line here, going south, (indicating).

Q I suggest to you that Kagetsu moved over on to 617. 274 wasn't something he was coming to, he left it?

A On just that little piece there,(indicating).

THE COMMISSION R: Would you indicate the little piece that you refer to.

MR.BRAIDWOOD: I'm sorry, my lord, it is B in red, and in the right hand lower corner on 274, the back, logged off since 1945, I think. It is bright red on the map in the right hand corner of 274, my lord.

THE COMMISSIONER: That was left in 1945?

MR.BRAIDWOOD: Yes, that is right, my lord.

THE WITNESS: I am not definitely sure. I think his switch-back came up there, (indicating). I imagine that is the next piece he was going to log.

Q Now, will you not agree with me that the continuation of the switch-back went right over 617 feet?

A The continuation? That is right.

Q Then what you were suggesting a few minutes ago, that Kagetsu might come normally to this next, is

probably not quite correct?

A His grades would have to be ahead into the standing timber. You have to have your grades in advance.

Q Now, I want you to consider those four parcels we have been discussing, and having the suggestions contained in my questions that those were scattered groups or patches -- I used the term that you don't agree with -- but I suggest they were by-passed areas. Isn't it in fact in your opinion correct, that Kagetsu as he went through the property, took out the most easily available and economical timber, and left the rest?

A He took out the most economical timber to his development.

Q That is right, and isn't it also a fact that in view of those scattered patches in various areas of the four blocks I have just mentioned to you, that a new purchaser coming in to take over the area could only treat the proposition as a salvage area, after Kagestsu had taken out the best.

A No, that is not so. For instance, you would look upon a salvage operation -- taking lot 88 where you see the patches of young growth; if that was matured timber and an operator came in to clear up small patches, you would consider that a salvage operation, but this area represents two main bodies of timber -- two main bodies of timber in a considerable area. That is excluding this 276 which was an area which was left, or which appears to have been left, by the operator here, because he couldn't reach it with the

equipment he used at that time.

Q So a new operator coming in couldn't hope to put on a full scale operation, because much of it had already been removed?

A No, I can't agree with that, because, if there was five million feet or something like that, a small volume --

Q You are keeping in mind, I hope, what the actual extraction from the whole property was in that three year period, according to your own report, which is 5½ million feet a year.

A Yes.

Q You wouldn't call that a large operation?

A No.

Q You are keeping that in mind when answering my questions as to whether or not it was the whole scale operation or a clean-up operation.

A Well it is a full-scale small operation, which I mentioned yesterday, although the production was too low. There's no reason in theworld why that thing couldn't be liquidated at twice the volume.

Q X Utilizing other areas than the four I have mentioned?

A This set up right here.

THE COMMISSIONER:

Q Where do you get your figure of five million feet cut in 1948?

A Sixteen and a half milli on in three years.

Q Where is it shown?

A It is shown at page 5, 16.7 from September 1945 to November 1948x,sir, which is practically exactly three years, so it is a little over five million a year.

MR.BRAIDWOOD:Q: You have told us that is not a big operation by any means?

A Well I don't want any misunderstanding. It isn't a small operation, you know. Five million a year represents the liquidation value of say $150,000.

Q Now, further to my line of questioning in what I choose to term a salvage operation, you have described to his lordship in some detail the circumstances of the map attached to your inventory, and I think the picture is fairly clear from the colour. We have discussed the getting to the various parcels of timber that remain to be taken out --

A Yes.

Q -- and you indicated to me when I told you the railway had been removed from 504 that probably a road would have to go in, and you also indicated, I believe, that the railway generally was not useable or extendable and roads would have to go in. Am I not correct, then, in saying that a prospective purchaser, coming into this area, would know that he would have to build roads?

A Yes, he would know he would have to build roads.

Q Does it not also follow that roads to a logging show usually support themslves by going through areas which are economical to log adjacent to the road?

A That is the preferable situation.

Q So that any operator coming into this particular show would know he had to put his roads in at a considerable cost to him, over barren land that could not help to

support the expense of the road.

A Yes, that is correct, he would have that capital expense.

Q He could not write it off from the logs that were not got off the barren land?

A He would have to write it off against the timber and logs recovered.

Q But that is not the normal situation for roads, you have told me?

A Practically every timber development, except those carried on years ago from the shoreline have capital investment with some approach roads.

Q But I suggest to you in this instance a new purchaser coming in is faced with the fact he must write off his road from what he can get out of the timber there some distance away?

A Yes. He had 8½ miles of approach road.

THE COMMISSIONER:Q: He had 8½ miles of barren land, before he got into timber?

A Yes, that is right, sir.

MR.BRAIDWOOD:Q: Now, I think I have dealt with that phase of my examination, and I would like to ask a few more generalised questions on your inventory, if you wouldn't mind answering them.

Is it not possible, in your opinion, that some of the timber included in your inventory wouldn't have been included if you had made the inventory in 1943, because the cost of getting that timber out wouldn't have paid for itself on the market at that time?

A As of any date when you are making an inventory, you

make an inventory of the merchantable timber, and then with that information you would consider the logging engineering part of it, after that. You might say we will do this or we will do that, and you would report. In making the timber inventory you must report what timber is there.

Q That is a part of it, but there also must be taken into consideration what the cost is of taking that timber out?

A That is the development part, yes.

Q Then the operator must consider what the return is going to be to him on the market, and whether it will cover his cost, as far as getting it out?

A Yes.

Q I am suggesting to you there may be timber in this inventory, which, if you had made the inventory in 1943, wouldn't have been included for those economic reasons.

A It wouldhave been included in the inventory. You include the timber in the inventory. All right, if you are making a logging plan -- for instance , this area here in 276, you would have to analyse it and consider it as far as development is concerned, but you certainly would include it and report it, otherwise no one would know how much timber you had.

Q It might not be economic to take it out. There wasn't much of a market for hemlock in 1943, was there?

A I would have to review my thinking, on that aspect of it.

Q I also suggest to you there was practically no market for a low grade hemlock, and you have given us evidence

here that this hemlock is largely below average?

A The hemlock? I believe that there was a fair market for pulp hemlock in 1943, and there have been submissions as to the production for the year to this Commission that would show that. For instance, the Pioneer Logging at Port McNeil is entirely a hemlock operation.

Q In 1943?

A They always have been, and they were producing hemlock lumber and hemlock pulp. They have been producing it continually. I don't think that you could say hemlock isn't marketable. It has a variable aspect to it, and that low grade hemlock would be sold as pulp. I don't know, but sometimes the term "low grade" is confusing. That is just a different type of timber for different purposes.

Q I suggest to you that the evidence is there was a great deal of low grade hemlock here, that evidence having come from the purchaser, through the evidence of Mr. Shaw. What have you to say as to that?

A May I look at the grey exhibit there.? There is a scale there of the production there. Is it in order to use exhibit 62? That happens to have some figures in it.

Q These are some notes of mine. Your counsel may have a copy.

A Forty percent. On page 6 it contains the combined cut in this inventory; forty percent hemlock and balsan. Some of it would be lumber hemlock and balsan and some would be pulp. I would say that that percentage

is normal for that area.

Now let's take the cut to date. That is here some place. That is on the same page.

THE COMMISSIONER:Q: You are now referring to page 6 of exhibit 42, exhibit 62, I take it.

A Yes, sir, under the column "cut", there. Of the sixteen million there was four million of the hemlock and balsan that we are speaking of that was sold on the market at that time during that period.

MR.BRAIDWOOD:Q: That is the period since 1943, isn't it?

A Yes.

Q Now, I want to refer you to page 937 of the evidence.

THE COMMISSIONER: Would you let me have the transcript please. Page 937?

MR.BRAIDWOOD: Q: Page 937 of the Evidence, we have a Commission witness, Mr. Keith Shaw, whomm I imagine you know quite well?

A Yes, I know him.

Q And at line 12 Mr. McPherson was cross examining him, and I think I probably should explain to you that in this instance I think Mr. Shaw was called as a Commission witness, and both Mr. McPherson, who preceded me, and Mr. Baldwin had an opportunity of cross-examining him, and the question was, "Q. And what about the grade of hemlock on block 195 and Deep Bay? Was it good hemlock or poor hemlock?

A: That has been quite a factor in both operations. There has been a great deal of low grade hemlock with knots and shakes in it. That is shown by the number of culls in it.

"THE COMMISSIONER: Q: While you are on that last subject, is this poor grade hemlock used from a milling point of view?

A: I don't think you could give it away right now. It has been used. The pulp mills have been picking it up, but right now there seems to be no market for it.

Q: For instance, your company was the purchaser of this low-grade hemlock. I presume they would not take it unless they could market it?

A: Well, we had agreed to take all the timber from both, and we took it.

Q: Regardless of its grade?

A: Yes.

THE COMMISSIONER: All right.

MR.McPHERSON:Q: Would you say that this low-grade hemlock that you referred to was considered as merchantable timber in 1943?

A: Definitely not."

Now, I am suggesting to you that there is that evidence and that there is also the evidence of Mr. Eustace Smith at page 800 of the Transcript, at about line 10. Mr.Smith was answering questions of Mr.McPherson, and he makes these remarks.

"A: Well apparently from this scale sheet, the entire over-run -- nearly all the over-run is in hemlock, which is very poor grade, and which I did not count when I was cruising that timber.

Q: Well in 1943, wouldn't you count that

" hemlock?

A: No, because it was poor grade.

Q: Was there any market for hemlock in 1943?

A: It was just starting to come in. There isn't a market today even for poor hemlock."

Now, I have read those two extracts, one from Mr. Smith whom you know, whom the Government has called and one from Mr. Shaw whom the Commission called, and in view of the fact the timber cruiser and Mr. Shaw, whom you know quite well, and you undoubtedly know his reputation, and he was an agent of the purchaser, in view of the fact that Mr. Shaw says there was no market for hemlock in 1943 and Mr. Smith takes that position --

MR.BALDWIN: I don't think that is quite correct. I don't think the witness said there was no market for it.

THE COMMISSIONER: I think he said this hemlock was not marketable.

MR.BRAIDWOOD: I will read it again, my lord, at 938. In view of what Mr. Shaw said, would you say this low grade was marketable?

"Q: Would you say that this low grade hemlock that you refer to was considered as merchantable timber in 1943?

A: Definitely not."

In view of those remarks, do you still hold to your opinion that this hemlock would be included in your forest inventory?

A Well, most stands of fir or most of our stands up the coast, have a certain amount of hemlock in them, and I will say this, that the hemlock problem has been

something that the timber industry of British Columbia has had to overcome for some years, and it is still working on it.

THE COMMISSIONER: Would you please direct your mind to the question put to you.

MR.BRAIDWOOD:Q: Do you still hold to your opinion that hemlock should be included in your forest inventory?

A Yes, because it is sold on the market and prices are paid for it.

Q Despite what Mr. Shaw and Mr. Smith have said, you say there was a market for Hemlock in 1943, and, more particularly, there was a market for the Deep Bay hemlock in 1943? Do you say that?

A Well, I have a feeling that Mr. Shaw and Mr. Smith couldn't have been of the same thought as I am, because there were millions of feet of hemlock sold in the market at that time.

Q Mr. Shaw, who was the agent for the purchaser, said it wasn't merchantable in 1943. Now shouldn't he know?

A Yes. I have a high regard for Mr. Smith and Mr.Shaw, and they should know, but I think there must be some misunderstanding on their part on the question, or something.

Q My question arises out of this line of questioning. You recall that I suggested to you that there might have been included in your inventory certain types of timber which if you had made the cruise in 1943 wouldn't have been included in that inventory, because it wasn't economical to use it, or it couldn't be economically used.

A No, we would have made the inventory in the same way.

Q Would you have placed a value, for example, on this hemlock?

A Yes, I believe I would.

Q Would you include the hemlock in the cruise, by the way?

A Yes.

Q Would there be other types of lumber or timber which might be included in this inventory which wouldn't have an economic value?

A Would you repeat that again, please?

Q Would there be any other types of timber included in your inventory, exhibit 61, which wouldn't have an economic value, in 1943?

A No. It is my considered opiqion that the timber in question all has an economic value in 1943.

Q You see, we have had something of a little dispute over the hemlock and I am wondering whether or not there might be something else in that inventory, which might be questionable from an economic point of view but you tell me no, is that correct?

A That is correct.

Q AndI think you appreciate you are being asked to do a very difficult thing, and that is to bring your mind back to place an estimate on quantity and also on value of the timber which existed in 1943, and which may have assumed a value since 1943, although it had no value at that time?

A That is correct, but as far as the inventory is concerned in 1943, or 1935, or any date, we would show the timber that was there. We might report certain

timber inaccessible, but the total volume of timber would be reported.

Q You understand now on this point I am not directing my examination to your quantity or your types, but merely to the values you placed on types, or your reasons for including types?

A Well, there is no question in my mind on the two large blocks -- these two large blocks, that they represent the great percentage of the area.

In other words there is 4,500,000 down here in 276, and I think there was 400,000 reported in the Camp area near the Tsable River. There is five million. In1943 there would have been some consideration of that five million or ten percent of the volume reported, but there is no question in my mind on these two major blocks.

THE COMMISSIONER:Q: Just let me follow you there. If I understand you correctly, regardless of the value of the timber you would show it in your inventory?

A We would show the volume.

Q You would show the volume?

A Yes, which we have done.

Q Then your inventory also assumes to show value. Now, are those values not affected by market conditions at the time the inventory is made?

A Yes, my lord, they are.

Q Well, have you taken into account in the preparation of your value figures the facts as given by Mr.Shaw and Mr.Smith as to Hemlock market conditions, for instance in 1943? A: Yes, my lord. I think

if you check on the total volume of Hemlock sold on the Vancouver market in 1943 you will find it is considerable.

Q You disagree with the evidence which was read to you a moment ago?

A I don't quite understand their stand on that.

Q I beg your pardon?

A I don't quite understand their stand on that point.

Q All I would like is your answer? They have said categorically --

A -- that there was no market for hemlock in 1943?

Q -- that there was no market for hemlock in 1943, but you say there was?

A It is my opinion that there would be a market, and it actually was sold in 1943. Hemlock was sold in 1943.

MR.BRAIDWOOD:Q: Now, Mr. Schultz, I think you said you examined the tally sheets of the Forestry Department for log scales since September 1945?

A This was done a year ago. They were either compiled by our office or Mr. Byres.

Q Well, the figures you used, 16,721,000 at page 5 of your inventory, I presume you obtained those from the Government?

A Yes, that is righ . Mr. Byres was working on the thing for some time. I believe he submitted that, but it came from the Government, yes.

Q You believe those to be Government figures?

A Yes, they are -- correct.

Q Although you don't have personal knowledge, presently,

apparently, of these figures.

A I don't want to make any mis-statement. I am not sure whether we collected those figures or Mr. Byres did.

Q Then you wouldn't know in regard to these figures as to whether they contained any logs of 12 inches or under, would you?

A I don't know at this stage.

Q Or 10 inches or under, or 6 inches or under.

A I would have to have the scale sheets in front of me.

Q As far as we are concerned, today, with volumes logged since 1945 we are faced with 16,721,000 and we don't know whether they are six inches, ten inches, 12 inches, eighteen inches, or twenty four, do we?

A Well --

Q We don't know now, do we?

THE COMMISSIONER: Give the witness an opportunity to answer.

A Well I know it would be normal, yes. I can't show you right on the scale sheets, but I know very well what the scale sheets will show if we look at the measurements, and they will show a normal log.return and there would be nine inches,small end, and up, with some minor quantities of six and eight inch and seven inch. That would be the normal log scale.

Q So, this figure of 16,721,000 might not necessarily represent eighteen inch diameter breast high at all?

A But I am convinced it does. I am convinced that is the low limit of the utilization, because I inspected their operations up there.

Q But I am asking you from your examination of the

Provincial Government scale.

A We checked the stumps where the cutting was made.

Q Isn't it possible to take more than one log out of the tree?

A Yes, but you see this eighteen inches diameter breast highm, as recorded here, is the unit of measurement on which the inventory was made, in the same way as the unit of measurement in scaling logs is the small end of the log together with the length. In the field we use diameter breast high, which is four and a half feet from the ground and the height of the tree as the measurement.

Q I follow that in dealing with the stump check at eighteen inches diameter breast high, but would it not be possible that there might not be two logs taken from the same tree?

A The small end would be less than eighteen inches.

Q That would show in the scale report?

A Yes.

Q And it might be included in the 16,721,000 feet, is that not correct?

A Yes, that is correct. If you cut a eighteen inch diameter breast high treamdown, it usually will be a one log tree. The small end, which shows in the S&R account,would be smaller than the eighteen inches.

Q I am suggesting to you that this figure used in your quantity of 16,721,000 might not give a strictly accurate picture of what was taken off the property?

A No, that is what has been taken off the property, and the Government would be very sure of it, because

that is what the charges are based on.

Q The information you have given us doesn't show what that 16 million feet consisted of, does it? We haven't that before us today.

A It may be here in evidence. It is the 16 million feet that came off these red areas, as shown on this plan.

Q But it could have been ten inch logs, couldn't it?

A Ten inches diameter, breast high?

Q Yes. It could have been, couldn't it?

A You mean, ten inches at the small end?

Q Yes?

A But I can't quite understand your point. You are talking about two different things. One is four and a half feet DBH from the ground and what shows on the scale sheets is the small end of the log, and this 16 million is the final Government scale of the returns that came off this area.

Q Now I think you have told us, Mr. Schultz, that the eighteen inch DBH tree usually contains one log?

A It usually contains one log.

Q Is it not possible with market conditions since 1945, due to the extensive utilization and the need for lumber, that sometimes more than one log can be taken out of that?

A Out of 18 inch?

Q Yes, DBH.

A Excuse me for just a moment. With the 18 inch tree it would be unusual for you to have two logs from that tree.

Q It could be done, though?

A I am thinking of the 32 or 34 foot logs. It would be unusual. There is an average of about 325 feet in an eighteen inch tree of medium height.

Q How many forty foot logs would come from the average trees on this Deep Bay proposition.?

A We didn't compile it that way. At times we do make compilations of that type, but we didn't compile it here. I would say that the Deep Bay -- I wouldn't like to answer that question without consideration.

Q Have you been on the area since September 1945?

A I haven't been on the area since the examination was made.

Q I asked if you had been on the area since September 1945?

A Yes, sure. I was there in 1948.

Q How many small logs did you find on the property, or anything that could be made into small logs?

A Actually there was a great accumulation of immature small timber in this area, due to the fact that the mature timber is scattered with immature timber in some of the merchantable areas, and that is shown at page 25, and we thought at the time it didn't affect this particular problem, but we thought at the time what a shame it was that all this stuff was being knocked down.

You will see the same thing there on that picture, trees of about forty years old growing around it, and most of that is piled high on the ground.

THE COMMISSIONER:Q: You are referring to page 21 of exhibit 61?

A Yes, my lord. So there would be quite an accumulation

of material that could be made up and cut into small logs and bundled for pulp, or numerous other things.

MR.BRAIDWOOD:Q: Well now, I would like to turn your attention to that part of your inventory which deals with the x quality of the lumber.

I think you have indicated to me, or indicated to my friend yesterday that there was probably an average of about 70% Number 1 and Number 2 logs on that area?

A That was in one particular lot referred to, yes.

Q You recall giving that evidence?

A Yes, I remember that.

Q Now, how would you break x that down between Number 1 a and Number 2 logs?

A Oh probably 10%. The best evidence you have on grade extractions, is at page 7, which shows the result of the extraction of the grades.

Q I am talking about your forest inventory. That doesn't break it up between number one and number two, does it?

A No.

THE COMMISSIONER: Are you referring to any particular page?

MR.BRAIDWOOD: No, just the general approach to the problem.

THE COMMISSIONER: I beg your pardon?

MR.BRAIDWOOD: The witness' general approach to the problem, my lord. I say on the matter of quality he has lumped numbers 1 and 2 together, generally speaking.

Q I am suggesting to you, Mr. Schultz, that on the market there is quite a considerable difference in price between Number 1 and Number 2 logs. Is that not correct? A: That is right.

Q Now, Mr. Schulz, I want to direct your attention for a few minutes to another page of your evidence and that is contained in exhibit 62, that is your stumpage appraisal.

Now, I note as a base you have taken the estimated selling price or for the estimated selling price of logs, rather the average price of the B.C.Loggers Association for 1944. You have used that?

A Yes.

Q That is extracted from exhibit 12?

A Yes.

Q Exhibit 12 deals with from 1924 to 1947, is that correct?

A Yes, that is correct.

Q Now, tell me, Mr. Schultz, let's put you in the position of acting for a purchaser of this property. Now in 1943, at the time which the Crown contends the sale was made would you have been in possession of the 1944 figures, in order to come to your present calculations?

A I naturally wouldn't have had them.

Q No. I suggest to you that in August or in early September 1943 the only figures you would have had to base your advice to a client on, would have been the 1942 figures for the B.C. Loggers Association, is that not correct?

A Yes, if I used those.

Q Well, you have used them?

A I have used them for this purpose.

Q I am taking the presumption that if you were advising

a client as to a sale in 1943 that you would have taken this method and therefore would have gone to the figures of the B.C. Loggers Association, and I am suggesting to you, and I think you have already agreed with me that the only figures youwould have had in August or September 1943 would be the 1942 figures?

A No. Actually what we would do would be to use the log market price at that time, rather than the average. We used the average in this case because we had to work on pa piece work but normally we use the present log market price.

Q In any given month?

A We would do it at the time. That is the best information you can get is to make an appraisal on the basis of present information.

Q I presume you would use an average and get at the figure as it should be at the time?

A That is the fairest information for this period, but if you were working today, you wouldn't have to check back, you would know what the going price is today. That is one of the weaknesses of these averages. Maybe the Deep Bay timber is worth a little more or a little less.

For instance, I notice another thing, the peelers are in there, too, in the averages. Well there may have been a higher perventage of peelers, or a lower percentage but this is the fairest information that can be compiled at the time.

Q Am I correct in that there was a sharp increase in

lumber prices from 1944 on.

A I think that shows in the record.

Q And wouldn't it be very likely that any average taken over the year 1944 would be heavily weighted by increases which occurred in the latter months of 1944, rather than on the lower prices which existed in the early months of 1944. Do you follow my point?

A Yes, it is a possibility, I don't know.

Q In other words, I am suggesting to you that an average figure which you would take for 1944 would not really represent a true average at all?

A Well, that is the best average available. You are speaking about something that we don't know anything about, really.

Q I am questioning you about whether it would be a true average, not the best average?

A That is the true average of the market condition for that year.

Q Despite the fact that lumber for example in December of 1944 would be much higher, and that might throw your average out for the whole year, mightn't it?

A Yes, but we have to assume that the increase was gradual and one half of the year would be on the lower side of the average and one half on the higher side.

Q That would be your assumption?

A Yes.

Q You understand I am not agreeing with the use of your figure for 1944 but I want to get the method you followed?

A Yes.

Q To get back to the question I put to you, if you had been acting for a client in August of 1943, you have told me that you wouldn't use this method or try and get an average. You would take the present log market?

A I would take the present log market price.

Q The present log market price in August of 1943, for example?

A That is right.

Q And you wouldn't use this average?

A I would ~~think~~ take the prices at that time.

Q Well, I would like to point out to you thatbasing a calculation on exhibit 12, we have the average which you used in 1944 of $21.37, in 1943, $19.74, and in 1942 $17.80.

MR.BALDWIN: Would you repeat those?

MR.BRAIDWOOD: 1944 was $21.37; 1943 was $19.74; and 1942 was $17.80.

A That is the averagefor all grades.

Q The average extracted, as you put it in 1944, with all grades, yes, on exhibit 12?

A Average all grades.

Q Yes. I attempted to use the same method that you would use for 1944?

A Are we correct in this, now, this average is based on the average of this Deep Bay Timber, ~~xxx~~ using each one of those prices there for 1944?

Q Yes. I think that is the way our average was worked out.

A For instance these prices were, number 1, $33.67, and

right down the line?

Q Yes.

THE COMMISSIONER: The witness is now quoting from exhibit 62.

MR.BRAIDWOOD: Yes. That is the same basis. In any event you told me you wouldn't have used it or used that basis if you had been acting in 1943?

A I would have mor current information on the market at that time, which we can't get now. That is the best information that is available at this date.

Q Now onthe matter of cost in exhibit 62. You have given us in evidence that although you allowed for a certain amount of depreciation on the estimateof the equipment used, you assumed some of this costly equipment wasn't necessary for this slow operation, x is that not correct?

A No, it is stated right here. No, it was my opinion, in order to attempt to arive at a fair appraisal, that the problem should be viewed with the most economical set up of equipment for the extraction of this fifty million feet, more or less, and a little higher production for appraisal purpose.

Q I thought you told my learned friend yesterday there was someequipment in there which you didn't think should have been in there; it was too expensive equipment for the operation.

A That is correct, but I want to make that clear. An operator with two expensive trucks, when the production he was putting in was equivalent to the capacity of one truck would be increasing his cost, that is the point.

Q Isn't it necessary to have two trucks on an operation like this?

A Not with five million feet a year. I would say a five millilon feet a year operation is an awkward thing to handle because if one truck breaks down you'd have the problem of lost time, but on the other hand you wouldn't want the depreciation of an extra truck waiting there.

Q Isn't it possible with the high altitude and the short seasons up there that it would be necessary to have as much equipment as possibke to get out as much as possible in the short time available to you?

A You are suggesting that this operation was like a six months operation, or something?

Q I am suggesting it is a short time operation, because of the winter conditions. You yourself told us yesterday of the difficulties you had getting into the property, due to weather conditions.

A This operation can be managed in two periods. They are doing it now. They didn't do it befre.

For instance, down at 504 they have what they call a winter operation. It is much lower and they operate there in the winter months and they operate up here (indicating) in the summer months.

THE COMMISSIONER:Q: Up where?

A In ~~xxx~~ 617 and 566 in the higher country.

Q I take it it is not practical to operate in that high country in the winter time?

A Say in November, December, January and February, although some winters, as you know, we have open winters

but it is dangerous. Last winter, or, rather the year we did this we had a terrific winter and early snow.

MR.BRAIDWOOD:Q: What have you to say in answer to my question as to the use of extra equipment?

A Ithink it could be managed as a normal operation by operating a winter show in the wintertime and a summer show in the summertime, as they are doing there.

Q Now, Idon't like to prolong this too long, Mr.Schultz, but there is a rather important matter to be discussed, and I would ask you to pay attention to some of the figures I have extracted here, so you can give me the benefit of your answers to them.

I think you have stated in your estimates in exhibit 62 that your cost estimate would include $8 a day ~~inform~~ labour, is that correct?

A That is the average that I took.

Q Yes. Now if we take the various items such as insurance at 25 cents, camp overhead at 75 cents, those wouldn't be taken into consideration in the $8 labour figure, would they?

A They are in there. I took the $8 base simply as a means of arriving at the 80 cents, because a compensation rate is 9 percent, although I use 10 percent; but there is labour in all these things. The easiest way to arrive at a fair rate for compensation is to take the average wage rate and apply the proper percentage paid for compensation.

THE COMMISSIONER:Q: Onwhat page are your figures taken from, Mr. Schultz?

A Page 2, my lord.

MR.BRAIDWOOD:Q: By the way, I believe this calculation was based on a turn over of about a million a month?

A Yes, that is correct.

Q It wasn't true of the Deep Bay Company?

A No.

Q I turn now to exhibit 62, which is the greyvolume, page 2?

A It must be appreciated that in making an effort to make an appraisal you wouldn't necessarily take the particular conditions of the operations, because you might be unfair to the timber holder, or you might be unfair to the operator.

Q Now I have extracted from page 2 what I believe to be the cost here, and in addition to your $8 labour figure there is the insurance at 25 cents, Camp overhead at 75 cents and 80 cents for Workmen's Compensation. In my method of calculation that brought the total to $9.80.

A I had better follow it more closely here. You take 80 cents for compensation?

Q Yes, and 25 cents for insurance and 75 cents for camp overhead.

A 75 cents for camp overhead, yes.

Q And for labour I think you gave me $8. I think we had come to that figure, hadn't we?

A Well there is labour and material in each one of these.

Q Yes.

A You are making a difficult approach to this thing.

Q Yes, but see how it works out.

A You get $9.80.

Q Yes, and that would leave, according to my calculations a balance of $1.75 for all the other items.

A I am not quite clear on what you are getting at.

Q I have a total of $11.55?

A Oh, you are subtracting that from $11.55?

Q Yes.

A I don't quite see the connection.

Q Perhaps I am ~~mx~~ the only one that will see it.

A $1.75?

Q Yes. Now we have extracted the labour, the insurance, the compensation cost and the overhead, which I presume was the cost of the cook house and one thing and another?

A No, because there was no cook house there. The camp overhead is the cost of telegraph and telephone and a time-keeper and that sort of thing.

Q Coming to that, we have a net figure, according to my mathematical calculations of $1.75. I suggest to you that that net figure must be extended to cover all the other cost which would include wire ropes, gasoline, oil, donkeys, and other costs of the logging operation, and I am asking you if you take that calculation as the basis, would you think $1.75 would go very far towards paying for the other costs?

A It is cost per thousand you mean?

Q Yes, and I suggest to you on four million feet, for example, that taking it at $1.75 per thousand, you would still only get $7,000 to pay for all your other

costs.

A I can't get your point there. You take the cost of labour and of workmen's compensation -- well workmen's compensation, that is a straight assessment. Insurance is another assessment and camp overhead has to do with labour and expenses.

Q And I have extracted that from your total?

A Then you add $8 which I have used as wage rate to get the Workmen's Compensation -- as an average wage rate.

Q For labour cost?

A Then you come to $9.80. You have added the wage rate of a man per day to the cost per thousand on your camp overhead and insurance and workmen's compensation to get $9.80. How can you add wages and cost per thousand? They are two different units, aren't they?

Q Your wages must appear in your chart somewhere.

A A proportion of falling and bucking and yarding and loading and cold-decking, truck hauling, road construction, booming and fire protection wages. There are wages in all of those things.

Q I am suggesting that that proportion would amount to $8 which you have given us, because the $8 figure you have used for the Workmen's compensation board calculation.

A Can you explain it to me, because I can't get your point.

Q I am posing to you the question that on the calculation which I am submitting to you that I suggest your total cost would mean the $9.80 per day for labour and the

two or three other services, and the balance would be $1.75 which would not cover, I suggest to you, all the other expenses of your operation. If you can't explain that calculation, or if you don't agree with that calculation, just tell me and that is allthere will be to it.

A I am afraid I don't understand it, but I would like to.

Q Well, I should point out to you again the $8 figure comes directly from your own evidence yesterday, that that was the rate.

THE COMMISSIONER:Q: Is it a daily average, or is it the cost of getting out a thousand feet of timber? That is what is worrying you, is it.

A Yes, I can't get it connected up at all.

MR.BRAIDWOOD: The compensation figures comes directly from that, my lord. That is where the evidence arose.

THE COMMISSIONER: The witness' difficulty, as I understand it, is that he does not think your $8 figure is related to the other figures, because the other figures are in line with a per thousand production, whereas he looks upon the $8 figure as the daily wage.

Perhaps if you will explain that to him, you will get an answer.

MR.BRAIDWOOD: I think my lord, that the estimate originally was there would be a thousand feet per day per man of lumber produced.

THE COMMISSIONER: You look upon the $8 figure as the per thousand figure.

THE WITNESS: $8 is the cost of labour per thousand?

MR.BRAIDWOOD: That was given in evidence yesterday.

THE COMMISSIONER: The witness said so yesterday.

A I did. Well, you could take $8 from $11.55.

MR.BRAIDWOOD: Q: Plus, I am asking you, to take the compensation and insurance?

A Your wages are a big percentage of the cost.

Q Now you begin to follow it.

A I see what you are driving at now.

Q If you take away the wages per thousand and these other incidental costs which I have listed, then you arrive at a total of $9.80, and your total is $11.55, so therefore I suggest $1.75 is all you have left to cover the general operation, for repairs and maintenance and the like.

A Just materials, you see. That $1.75 would be mostly for gas and oil and wire rope.

Q Gas and oil and wire rope and purchases of equipment, and repairs to equipment?

A Not purchases of equipment.

Q Repairs to equipment?

A Yes. That is in labour, mostly. Some small parts you mean?

Q Yes.

A Yes. I see your point.

Q Yes, that is my point. I don't suppose you have any comment, to make on it, have you?

A No, that is all right.

Q You would be satisfied with that in a logging operation.

THE COMMISSIONER: Do you expect an answer to that? Is that a question?

MR.BRAIDWOOD: Q: Yes. I asked, would you be satisfied with

that in a logging operation?

A Yes, I think that is all right. It is quite an interesting approach, but I think it is all right.

THE COMMISSIONER: Q: What it comes down to is this: There is a $1.75 difference, and you are being asked if that is adequate to cover all the incidentals that are not referred to in exhibit 62 at page 2.

A Thatis, on every thousand board feet produced you pay $1.75 for gas and oil and incidental things.

MR.BRAIDWOOD: That is correct.

THE COMMISSIONER: Q: You agree that would be enough, Mr. Schultz,?

A Yes. I would like to analyse that. Yes, I think so. To get down to a fine point like that, after all, this is an estimate, and you are not analysing every factor, but I agree with that.

MR.BRAIDWOOD: Q: Now I suggest to you that an examination of your figures on page 2 doesn't reveal any attention given to the matter of land taxes, or income taxes?

A Well, incometaxes, wouldn't come into an appraisal. That is not considered a cost, you see. It probably should be, but it isn't. It isn't considered normal practice to consider income tax as a cost, is it? Taxes are not considered as a max.cost.

Q Certainly the land taxes would be a cost.

A Land taxes would be a cost.

Q You haven't taken them into account, have you?

A No. They are very small, per thousand, on this thing.

Q They are still not accounted for in this estimate?

A You can put it in under camp overhead, if you like. It is a very negligible cost per thousand, in this particular operation.

For instance, we take into account anything that would weight it. There is no royalty here, because there is no royalty charged.

THE COMMISSIONER: Are you going to be some time longer, Mr. Braidwood?

MR.BRAIDWOOD: Perhaps, my lord, I will be a few minutes, yes.

THE COMMISSIONER: I would like to adjourn a little before one o'clock. If you can finish with him by ten minutes to one I will carry on, but if not I will adjourn now.

MR.BRAIDWOOD: I haven't finished with this section of my cross-examination, and I have another section. It might be preferable to adjourn now.

THE COMMISSIONER: Perhaps it would be just as well, and we will resume at 2.15.

(PROCEEDINGS ADJOURNED UNTIL 2.15 P.M.)

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT AT 2:15 P.M.)

CHARLES SCHULTZ (resumed the stand, testified further as follows)

CROSS EXAMINATION CONTINUED BY MR.BRAIDWOOD:

Q When we adjourned this morning, Mr. Schultz, I had just concluded my examination on this matter of cost shown at page 2, and I would like to now turn to thematter of your evidence in which you estimated the road cost of the main road at 70 cents per thousand. Am I correct in that figure?

THE COMMISSIONER:Q: It is at page 5 of exhibit 62?

A Page 4, my lord.

Q Yes.

MR.BRAIDWOOD: Q: That figure is correct, I think, 70 cents per thousand, is it not?

A Yes, that is the figure submitted.

Q I take it that figure is based necessarily upon the quantity of timber that is found in your survey to be there on the property?

A That is correct.

Q I take it it also follows if there is only 25 percent of the amount of timber you estimated actually on the property, that would increase your cost by four, or to $2.80, for example?

A Yes. It would increase in proportion.

Q What I am suggesting to you is this: Your cost per thousand is directly related to the amount of timber which is in your opinion on the property.

A The road cost per thousand is directly related to amount of timber in the area.

Q You mentioned the need of a new road, I believe. Would this not necessitate some ~~x~~ further booming and dumping facilities on this proposition?

THE COMMISSIONER: That is to say, if it was converted to a truck operation?

MR BRAIDWOOD: That is right, my lord.

Q If this new road was put in and extended, would there not be need of further dumping and booming facilities? I am asking you to cast your mind back to 1946?

A Well, this analysis was made on the premise that facilities on hand would be sufficient.

Q You don't think there would have been any need for further facilities?

A I think there would have been a minor expense to take the steel up. Of course, they dumped in the new booming ground, if I remember it at Mud Bay, and that was in existence, I think,Q.

Q I think I should point out my understanding of the evidence is that Mr. Keith Shaw again indicated that there was a need for increased booming and dumping facilities.

A That may be. I am not able to add to that.

THE COMMISSIONER:Q: I understand that you did not consider that feature?

A I did not consider any increased expense for booming in this analysis.

Q But you concede there is a possibility?

A There is a possibility, yes sir.

MR.BRAIDWOOD:Q: Now, my examination of your figures, Mr. Schultz, would lead me to the conclusion that on this operation, on a production of four million feet per year, you estimated a profit of $1.73 per thousand, is that right? You have made a provision for profit. That is at page 2?

A Page 2? Profit and risk is $1.73, as allowed for in this.exhibit.

Q Yes.

A That was based, as you will remember, back on a higher production.

Q That is right. Actually a production of a million a month, wasn' t it?

A Yes, about ten million a year.

Q Yes. Now your basis is $1.73 for a profit and risk, as you call it. Now I would point out to you you haven't made any provision for the cost of building roads, and other opening up expenses and for the provision of new capital equipment, have you, as yet in this table?

A Yes. It is in this depreciation cost of $2.06.

Q Would that be enough to cover all of the opening up expenses and the purchase of new equipment?

A Yes. That is calculated on page 3 together with page 4, I believe. In other words, I have the sum of about $40,000.00 altogether allotted for that purpose.

Q And even taking that into consideration I suggest you still arrive at the figure of $1.73 as the profit and risk figure, and that is a profit and risk figure before income tax on the receiver.

A That is correct.

Q So the receiver would have to account for the income tax on that?

A Yes.

Q Then I suggest to you on a production of four million feet in that given year, that would mean a total profit of six to seven thousand dollars in a given year?

A On the basis of four million, it would.

Q I put that up as an example to you, and we show that over a three year period, five and a half million

was taken out, roughly, for each year. Then I would point out to you that according to the inventory which you have presented to us and the claim made arising out of it, as best I can figure it, the claimant is asking for timber and buildings and equipment in the amount of $354,500, as at 1943. I am telling you that is what I have deduced from the claimant's submission?

A Yes, I haven't analysed that.

Q That is just a matter of arithmetic, taken from the claim, of course. Now on the basis of that estimated value of $354,000, would you be inclined to think that a return of $1.73 per thousand which would run to six to seven thousand dollars on a cut of four million in any givenyear would be an adequate return for the amount of money invested.

A For an investment of $350,000?

Q For an investment of $350,000.

A No. On an investment of $350,000 any business man would want to make more than $7,000 naturally.

THE COMMISSIONER: What does the $350,000 represent.

MR.BRAIDWOOD: It represents my lord, my extraction from the claimant's figures of what he is actually claiming for the proposition, including 195.

Q And I would point out to you, too, Mr. Schultz, that the figure I have quoted of $350,000 would not be inclusive of the figure of about $140,000, which you would say the operator would have to spend on equipment and roads, at pages 3 and 4 of your exhibit 62. So we have an even higher figure to

contend with I suggest, as opposed to the $1.75 you have estimated before income tax -- to the operator, that is.

A You are making the $350,000 equivalent to this expenditure of $95,000 opening up for equipment.?

Q No. I am suggesting to you that the claimant is claiming from $350,000 for the timber. lands, buildings and equipment, which he had, and that you are indicating to the Commission at pages 3 and 4 of exhibit 62, that there would be in there -- $340,000 or so necessarily expended before the proposition could be handled by a new operator, and against all those figures you are telling us now that the income and risk return is going to be $1.73 per thousand. I think you agreed with me a few minutes ago that that figure if applied to an actual turn over of four million feet, would not make a very sizeable return to an operator.

A No, that is right, although I could clear up one point there. In timber work an operator may have say, two million dollars worth tof timber and he doesn't look upon that as the capital required to liquidate that. In other words that two million dollars, he looks upon it as separate to his operating profit.

Q Isn't it correct that any person who goes into a timber operation expects to get his money out of it, and a return on his investment?

A Yes. He will get it in liquidating the timber. That is why timber values are discounted.

Q Now then, Mr. Schultz, no doubt you have been told

the details of the various cruises which have been submitted in evidence to his lordship, nd I am asking you now, on the basis of the cruise that Mr.Smith has submitted to the Commission and on the basis of the E & N Railway cruises which have been put before the Commission, and the various other estimates of witnesses, and indeed the figures supplied to the Commission by Mr. Kagetsu himself, whether you don't think that your figure, which appears to be by far the highest at all, is out of line in volume?

A I am not aware of some of these figures that were submitted to the Commission.

THE COMMISSIONER: It might be helpful if you would give Mr. Schultz the figures as we have them up to date.

MR.BRAIDWOOD: Now, my lord, if the witness will wait for a moment I hope to have Mr. Shears extract a document which purports to be an analysis of the various timber reports, for the want of a better name, we will call it, which have been made throughout the hearing of this particular case, and I believe it to be accurate, although I could call Mr.Shears to testify he had prepared it from the figures.

THE COMMISSIONER: You'd better show it to your friend.

MR.BRAIDWOOD: He had a copy of it the other day that I handed to him. I didn't wish to put it in evidence then. It is a summary, for the purpose of convenience, that is all.

THE COMMISSIONER: Perhaps Mr. Baldwin can agree that it correctly sets out the figures that have been given by the various witnesses.

MR.BALDWIN: I think I could, if I can see a spare copy. The change in the original is only in the money, isn't it?

THE COMMISSIONER: Just before you use it, I suggest you give Mr. Baldwin a moment or two to look at it.

MR.BRAIDWOOD: I might say, my lord, Mr. Shears has extracted this directly from the exhibits which have beenfiled, and from the transcript, my lord.

THE COMMISSIONER: My purpose in asking you to wait for a moment, Mr. Braidwood, is to give Mr. Baldwin an opportunity to look at it.

MR.BALDWIN: I am quite willing to accept Mr. Shear's word for anything he might want to say, but I would like to look at it for a moment.

THE COMMISSIONER: Yes, certainly.

MR.BALDWIN: I would say I have no objection to my friend using it.

THE COMMISSIONER: You can use it, Mr. Braidwood, on this understanding, that if before we conclude this argument, Mr. Baldwin should desire to make any comment on any of these figures, he is free to do so.

MR.BRAIDWOOD: Quite so. It ispurely to assist us. I think it will assist the Commission.

THE COMMISSIONER: It will be exhibit 63.

MR.BRAIDWOOD: One of the difficulties we have found here, is there are so many different figures at so many different times.

THE COMMISSIONER: I might say I am very happy to have this anlysis myself. It will probably save me a good deal of searching.

MR.BRAIDWOOD: The witness might just have a moment to look at the document, my lord.

(ANALYSIS MARKED NUMBER 1388-63)

THE COMMISSIONER: I would like it if you would just explain the document. I take it the blocks shown on the left hand side are the various blocks with which we are concerned?

MR.BRAIDWOOD: Yes, my lord. The left hand column represents the blocks.

THE COMMISSIONER: And the next column is the E& N cruise?

MR.BRAIDWOOD: Yes, that is taken from Exhibit #16 and 20 my lord, the dates and the amount of the quantity to be purchased.

THE COMMISSIONER:
Q Exhibit 16 and 20.

MR.BRAIDWOOD: Yes. That appears actually on the exhibit itself, my lord, on the heading of that column.

THE COMMISSIONER: Yes, I see that.

MR.BRAIDWOOD: And then "claim for quantity as amended."

THE COMMISSIONER: What is meant by that.

MR.BRAIDWOOD: Well there was an original claim my lord, and then the claim for ~~property~~ quantity was amended.

THE COMMISSIONER: That is the claim made here by the Deep Bay Company.

MR.BRAIDWOOD: Yes, my lord. Then the claim was further amended in the transcript at page 172, as you will see in the next column. Then there is a reference in exhibit 5 to the Sheehan Report in 1923. They used a diameter breast high of fourteen inches. That applies only to 195, as your lordship will see from the line drawn across at the bottom.

The next is the first Schultz Report in 1948, which is exhibit 14, and following that we have the Schultz 4% Stump examination, exhibit 15, and that again applies to 195. Coming across we have the present inventory exhibit 61 which we have been dealing with, my lord, 12 to 18 inches and over 18 inches. Going further to the right we have Kagetsu and Carl Stewart figure of 1942, which the Crown has contended was 17 to 18 million feet. That is in as exhibit 30 and 31.

THE COMMISSIONER: That was October, was it not?

MR.BRAIDWOOD: That was October, and then on the extreme right hand column is the Eustace Smith cruise for 1943, which was the basis of the government exhibits 45 and 36.

THE COMMISSIONER: What is this figure in the lower right hand corner.

MR.BRAIDWOOD: That is the total, my lord, of what appears above. The figure in red, you refer to of 16,598,000?

THE COMMISSIONER: Oh I see, that M is Mr. Eustace Smith's cruise.

MR.BRAIDWOOD: That is right my lord.

THE COMMISSIONER: There is an overal l cruise of 30,994,000, roughly 31 million.

MR.BRAIDWOOD: Yes, my lord.

THE COMMISSIONER:Q: Is that clear to you, Mr. Schultz?

A Except, my lord, part of it is 195 in the Cowichan area, and part Fanny Bay.

THE COMMISSIONER: The part below the line is195 with the exception of that in the right hand part which is simply a total of Mr. Smith's cruise.

MR.BRAIDWOOD: I'm sorry, my lord, the two figures below the line in the extreme right hand corner are also Mr. Smith's cruise of 195. I am sorry. Everything below the line relates to 195, my lord.

MR.BALDWIN: Except the ones in red.

MR.BRAIDWOOD: Except the ones in red, yes.

MR.BALDWIN: That is still below. That is the total of Deep Bay.

THE COMMISSIONER: Mr. Smith's cruise of the various blocks is 16½ million.

MR.BRAIDWOOD: Yes.

THE COMMISSIONER: Then is his cruise for a hundred and ninety five, the figure of 31 million.

MR.BRAIDWOOD: Yes, that is right.

THE COMMISSIONER: Very well, will you proceed.

MR.BRAIDWOOD:Q: Now, Mr. Schultz, you have had the benefit of seeing those totals, and my question to you is: In view of the various estimate and cruises which appear on that document, including those of Mr.Smith and Mr. Nagetsu himself, and the E&N cruise, do you still take the position that your inventory is a proper one?

THE COMMISSIONER: Better put it "is an accurate one?"

MR.BRAIDWOOD:Q: Is it an accurate estimateof the timber, on that property in 1943?

A Yes, I think so. After doing all this work, we wouldn't change our figures because we saw someone else get a different answer.

Q I imagine the other figures are wrong, is that correct?

THE COMMISSIONER: I do not need think you need to go so far

as that. Mr. Schultz is obviously satisfied with his own figures, and is not satisfied he is wrong.

Q Is that the correct position?

A Yes. On the basis of the work and the way we did it, we are convinced our work is good.

MR.BRAIDWOOD:Q: Would there be any possibility, Mr.Schultz, of you explaining or offering any reason why there should be such a difference between your figures and made in 1948 and the other figures which were made in the other years.

A There would be a number of explanations. These various other examinations may have been done on different specification. As far as I could see that would be the main possibility for a difference.

For instance, if we examine on the basis of our specification, and somebody else may have gone in and not taken all species or eliminated some areas, there would be a difference. I haven't seen the specification on which the other work was done and I wouldn't care to criticise anybody else.

Q No, I am not asking you to criticise anybody else. I'm asking you if you can offerm an explanation of why there might be a difference and you have given me some very logical reasons I think, of why that should be so. Is there any other explanation you have to offer as to why the difference occurs.

A There could only be two, I think, and they would be involved in the specification. One would be whether all species are accounted for, that is the same

consideration to merchantability is given.

THE COMMISSIONER: You notice that Mr. Eustaxce Smith has said he excluded Hemlock because he considered it of no value.

A That is one reason my lord.

Q He said hemlock represented forty percent of the whole?

A Yes, and the second one, my lord, would be that some areas were not examined. We have examined all the mature timber. It is possible that all those were not included in the first examination or in examination by other parties. Those are the only possibilities I can think of.

MR.BRAIDWOOD:Q: You recall me asking you a few minutes ago on the figure of $350,000 what the total return from it should be, Mr.Schultz,? In your opinion, in 1943, if you had been acting for a client purchaser, would you have been prepared to recommend the purchase of this property at $350,000.

A That would take considerable consideration on my part. You have given me the figure of $350,000 and I have worked out a tentative valuation. Before any decisionis made on any project like that a lot of thought and consideration goes into it and I wouldn't like in an answer to a question here to recommend that someone buy or not buy at that time.

THE COMMISSIONER:Q: Now what was your tentative valuation.

A $4.30 per thousand.

Q I beg your pardon?

A $4.30 per thousand. That is simply a figure, my lord,

that would be used as a basis. In other words, it might be a figure that buyer and seller would meet on. In other words, for a prosmpective buyer I would work this out, and naturally, if I could get it for $2 I would try and get it for $2, or $1 if I could.

THE COMMISSIONER: Q: That $4.30 figure is calculated on 56,520,000.

A Yes, my lord.

MR.BRAIDWOOD:Q: And I take it, Mr. Schultz, in regard to my question as to whether you would have advised a client of yours who was a prospective purchaser to purchase this property for $350,000 in August 1943, you choose not to give an answer?

A Yes, I choose not to give an answer.

Q By the way, I just note at page 5 of exhibit 61 that a number of these blocks which you have given as quantities, these are only estimates and not the subject matter of a cruise, is that correct?

A That is correct.

Q Those were only estimates on your part?

A Thirty million was examined and the rest was examined and those estimates made. Of course, the cdd-deck was examined.

THE COMMISSIONER: And the figure, if my mathematics are correct, is $2 433,000. That is $4.30 multiplied by 56,520,000.

A Yes, that is the extension.

Q That is, assuming that my multiplication is correct?

A Yes, my lord.

MR.BRAIDWOOD: May I just have one moment, my lord.

THE COMMISSIONER: Yes.

MR.BRAIDWOOD: That is all, my lord.

THE COMMISSIONER: Is there any re-examination my lord.

MR.BALDWIN: Yes, my lord.

RE-EXAMINATION BY MR. BALDWIN:

Q Mr. Schultz, first of all, the figure my friend gave you for the total figure of $350,000, I believe, is made up and Mr. Braidwood will correct me if I am wrong -- it is made up from the amended claim and includes in it all this equipment, such as locomotives, flat-cars, etcetera. You didn't inspect that equipment, did you?

A No.

MR.BRAIDWOOD: I think my lord, my question was quite clear. I said they the claimant is claiming a total of $350,000 approximately, for the whole show.

THE COMMISSIONER: Well it was not entirely clear to Mr.Schultz that the $350,000 included something other than timber.

MR.BALDWIN: I thought it best to clear it up, my lord.

THE COMMISSIONER: Actually, his claim,as I read it, for timber runs to $292,000.

MR.BALDWIN: Yes, that is correct, my lord.

MR.BRAIDWOOD: Plus the $28,000 which my friend is seeking to bring in as an ehhanced value because of the presence of the railway. My friend can't put it in in one place, and take it out in another.

MR.BALDWIN: It doesn't make much difference where it is put in.

MR.BRAIDWOOD: It makes a different for the purpose of the question.

THE COMMISSIONER: Where is it?

MR.BRAIDWOOD: It is just below item 2A. My friend isn't claiming for a railway, but he is claiming the timber is worth more because the railway is w there.

THE COMMISSIONER: The claim then is for $320,000 odd.

MR.BRAIDWOOD: No, $330,000 odd, isn't it? No, $320,000, yes, that is right.

THE COMMISSIONER: You were not very far out on your $350,000.

MR.BALDWIN:Q: Now the assumption that you make of a ten million annual cut, what sort of an operation would yield that,? Would it be a superlatively efficient one, or less than average in efficiency.

A It was considered to be an average operation. Otherwise the figures would be unfair to both parties.

Q Early in his cross-examination, I think my friend was questioning you, as I recall it, on the value of this figure that you have arrived at in exhibit 62 -- the practical value of it, and why it was used. I am not sure that your evidence is entirely clear on that.

A You mean the practical valueof the stumpage?

Q The stumpage value, yes.

A Well, it is simply a figure that is worked out, from all available information, to act as an indicator of a price on which buyer and seller might meet.

THE COMMISSIONER:Q: On the $4.30 price?

A Yes.

MR.BALDWIN:Q: That is what I want to make clear. And in one answer, either to his lordship or my friend, with regard to the 70 cents per thousand on road cost -- my friend was questioning you on that -- and early in his cross-examination he was suggesting that this timber, you have to build your own road to get into m the timber or a long approach. Now on the ground there, was there any reason for a saving in road expense, or was it too difficult to build roads, or what was the situation?

A The road construction problem was considered easy, and you will note in this we gave $6,000 per mile for it, and then there is four and a half miles of railroad gradex that were used, and we gave a credit of 50 cents per mile for the railraod grade.

THE COMMISSIONER: The old railroad grade was used?

A Yes, four and a half miles of it.

Q That is to say, the purchasers of this timber used the old railway grade for four and a half miles, did they?

A Well, the new operator. He is a contractor, I believe.

Q I suppose it would have to be put in useable condition. They simply used the grade as a foundation for the road, is that it?

A Yes, my lord, yes.

MR.BALDWIN:Q: Would that involve much work?

A It would involve using a cat to push the ties off, and probably widening it a bit, and building diversions around s ome of the tressels.

Q I take you again to exhibit22, and your analysis there. My friend was talking to you about these costs listed

on page 2. A: Yes.

Q And I think he finally arrived at the position where he had subtracted from the total figure of $11.55 a total of $9.80?

THE COMMISSIONER: That is right. That is made up of 80 cents for compensation, 25 cents for insurance, and 75 cents for camp overhead.

MR.BALDWIN:Q: Now, what about the last item.

A The last item, camp overhead, has labour in it. Camp overhead shouldn't have been subtracted in that analysis, my lord.

THE COMMISSIONER:Q: It might have included a lot of other things beside labour, you know.

A All these things, do. The idea, as I understand it, was to subtract the cost that had no labour in it, which is the workmen's compensation and insurance. Everything else has labour in it, and then add the suggested labour cost. So to do that properly, the camp overhead shouldn't have been included in it.

MR.BALDWIN:Q: So from $11.55 you would take how much?

A $1.05.

Q No, $9.05?

A Or $9.05.

Q $9.05 to arrive at the proportion of the total figure which contains no labour.

A That's right.

THE COMMISSIONER:Q: How do you arrive at your figure of $9.05? You are only taking 25 cents off $9.80, aren't you?

MR.BALDWIN: No, my lord, 75 cents off.

THE COMMISSIONER: Oh yes, I am confusing the two figures.

MR.BALDWIN: That leaves $2.50.

A Yes, it must be appreciated that the man-day labour charge that I estimated at $8 was estimated for workmen's compensation only. Now that figure may be a little less or a little more. If this thing is out 5 or 10%, I would consider it would be good.

Q It was an arbitrary figure you took, for the purpose of computing workmen's compensation?

A That is correct.

Q What about the figure for workemen's compensation at 80?

A In building this up, we tried to make it as close as we thought it would be -- as close as possible.

MR.BRAIDWOOD: My lord, I don't wish to interrupt my friend, but before he finishes that point, I would like it clear in my mind is he deducting the whole 75 cents.

THE COMMISSIONER: Yes.

MR.BRAIDWOOD: My understanding of the witness' evidence was that part of the camp overhead was labour.

MR.BALDWIN: Yes, that is true.

THE COMMISSIONER: That is what he said, but he points out that the only two items that strictly speaking have no labour at all are compensation and insurance. All the others do include some labour, as he pointed out in his answer to me. I have correctly stated the position, have I not?

MR.BRAIDWOOD: I think so. I think the witness, Mr. Schultz, had one approach to the matter and my friend approached it, from another angle, and, approaching it from my friend's point of view, he has taken the figure of $8

for labour and then added to it --

THE COMMISSIONER: -- those things which include no labour.

MR.BALDWIN: Yes, my lord.

Q You were cruising timber in 1944,weren't you, on your own job?

A Yes.

Q My friend has been directing a lot of his questions of you in cross-examination to establishing the fact that hemlock wasn't merchantable at that time, in 1943. What do you say as to that?

MR.BRAE THE COMMISSIONER: I think we have his answer on that. He expressed doubt about the statements of both Mr. Smith and Mr. Shaw that hemlock was unsaleable. That has been exhausted pretty well.

MR.BALDWIN: Yes, my lord, I think the witness expressed doubt. He thought there was some misunderstanding somewhere.

A We were producing and selling hemlock in 1944 and 1943.

THE COMMISSIONER: He gave that answer to me earlier.

MR.BALDWIN: I am sorry, my lord, I hadn't appreciated that.

Q My friend also earlier in his cross-examination gave three figures in accordance with exhibit 12, which is the B.C. Logging Association list of average prices. It is exhibit 12, here., $21.37, $19.74, $17.80 respectively, for 1944, 1943 and 1942, and your figure from the 1944 figures in exhibit 62 is what?

A $21.16.

Q And that figure was arrived at by taking into consideration the volumes of various species at Deep Bay?

A That is correct.

Q My friend, I think, will concede that these figures are not

weighted. They are in accordance with the stand. On this point I wanted to direct your lordship's attention to it because the figures he gave when he was cross examining were the actual figures from exhibit 12, that is the average throughout the province, and they were not the averages or figures which applied to the Deep Bay stand.

MRBRAIDWOOD : My lord, I am not prepared to admit anything of the kind. If my friend wants me to make an admission, he can ask me if I will.

THE COMMISSIONER: I am not treating it as an admission. There was testimony given by a gentleman from the Loggers agency, and the transcript will speak as to what he said.

MR.BRAIDWOOD: My remarks on weighting my lord, -- I admit what my figures are, but my figures concerning weight were weighted as the prices rose throughout the year and at the end of the year as opposed to the middle.

THE COMMISSIONER: Yes, I recall that.

MR.BALDWIN:Q: What do you say as to the grades of the logs shown in that exhibit 22. My friend was directing a lot of his questions to this. This is a summary of the scale from Deep Bay under the timber mark VKA and a crescent, and you have taken those and they appear in your report, exhibit 61, on page 19.

THE COMMISSIONER: What is the point you desire to make? What is your question?

MR.BALDWIN: My question is what does he say as to these grades, whether they are average.

THE COMMISSIONER: The grades where?

MR.BALDWIN: The grades shown by the cut which is exhibit 22, and contained in his report at page 19. Well, take fir; this stand, the total of the percentage volume was 49.56.

A Yes.

Q How is that? Is that above or below average, or what is it for fir content on Vancouver Island?

A Oh, that is a good average stand of fir.

Q All right, now as to the grades in fir.

A 70 percent No. 1 and 2, is quite good.

Q I direct your attention specifically to page 19. Your number one grade is 9.93 percent?

A Yes.

Q Is that high or low?

A That is a good stand. It isn't low. It is a good stand.

THE COMMISSIONER: Is there any issue here on grades?

MR.BALDWIN: I understood there to be, my lord, and I anticipate that some of the evidence which my friend will call will be that some of this stuff was poor and that is why it wasn't cruised.

THE COMMISSIONER: Well that reference was made specifically in regard to hemlock, but I did not appreciate there was any issue as between these witnesses on grades, on other classes of timber.

MR.BALDWIN: At the moment, I can't recall. Perhaps my friend knows.

MR.BRAIDWOOD: I don't recall that that was brought up in my cross-examination at all, my lord. I certainly dealt with hemlock.

THE COMMISSIONER: It was not brought up in cross-examination as I recall it, but I don't appreciate there was any issue between the witnesses, apart from hemlock.

MR.BRAIDWOOD: I asked only one question, whether the witness had given fir number 1 and 2 -- he had given the figure at 70 and I asked if he could distinguish the No. 1 and 2 within that percentage, and he gave me an approximate figure.

MR.BALDWIN:Q: Do you think that with the aid of this exhibit 22 you can give my friend a more accurate breakdown of your 70 percent, no. 1 and 2.

A I think I gave it at 10 percent at that time, No. 1.

MR.BRAIDWOOD:Q: ten percent of what?

A No. 1.

MR.BALDWIN:Q: As I recall it you were not prepared to agree with my friend when he referred to this timber as in categories, and I think he recognized that later in his description of these areas. You want to amplify what you said?

MR.BRAIDWOOD: No, I wouldn't agree with my friend on that either.

THE COMMISSIONER: I do not think that is open for re-examination either. It has been dealt with quite exhaustively by the witness. He has had an full opportunity to explain what he meant by it. Actually, it was the witness who protested the use of the word "patches". He pointed to the map and explained the stands.

MR.BALDWIN: My impression was that it had not been dealt with.

THE COMMISSIONER: Yes. He protested very firmly that Mr. Braidwood was using the term "patches" improperly, in

relation to these stands.

MR.BALDWIN: That is all right, my lord. I won't pursue it further. If your lordship would bear with me for a moment, I would like to speak to Mr. Byres.

I have no further questions to ask of Mr.Schultz.

Q If there is anything that you yourself think that you haven't explained to his lordship arising from my friend's crossexamination I would suggest you tell the Commissioner. I have no further questions?

A No, my lord.

THE COMMISSIONER: I have one question I would like to put to Mr. Schultz.

Q You have referred to ten million a month as an average output from this property as it stood, I take it, in 1943 or 1944, whenever the sale was made?

A Yes, sir.

Q We have it in evidence that the output of the Deep Bay company ran in the neighbourhood of 5 million per annum?

A Yes, my lord.

Q And did not exceed six million. What inference should I draw from that fact, that your ten million average is one that was unobtainable in the circumstances, or the Deep Bay Company was not that efficient.

A No. The ten million is used as you might say as a hypothetical figure, in order to arrive at a fair indicated stumpage value, because if we reduce it to six million and use the equipment that is being used up there at present, we get a very heavy depreciation cost, which in our opinion, is unreasonable for valuation purposes.

Q Had you done so, it would have shown the stand at less value than you have put it at, am I correct in that?

A Yes. Similarly, if you log timber over a given period, the discount rate has a greater effect.

Q That is why I put the question to you. You are making a comparison between the Deep Bay cut and an average cut. Have you any explanation that you can suggest for the small cut that the Deep Bay company made on an average, annually, during their period of operations?

MR. BALDWIN: During this period, it wasn't the Deep Bay Company, my lord. The Deep Bay Company cut, according to the evidence, about 12 million. It was the Tsable River Company that that annual figure was for.

THE COMMISSIONER: I misunderstood it. I had that figure fixed in my mind of 5½ million.

MR. BALDWIN: That figure is arrived at from Exhibit 22.

THE COMMISSIONER: Yes, you are quite right; I am wrong.

Q It is immaterial, but presumably the operator, whoever he was, would endeavour to log as much as he could, otherwise his unit cost is going to be away out of line, is it not?

A Yes.

Q That is why I put that question to you. What explanation can you suggest for the low cut, or the low production of the Tsable River Company?

A Well, he is a contractor, and he may be limited in finances, and hasn't the equipment in there to produce his 10 million. He probably would like to.

That is one possibility.

Q I presume the nature of the topography would be another factor which might operate to cut down his output?

A No; we thought of that. That is one point guiding the 10 million per year, and why we think this way, that it should be operated in a set-up like this, and he should have that--

Q You figure, having the topography in mind, that a fair average would be 10 million?

A Yes. And it should be liquidated in, say, 5 years.

THE COMMISSIONER: Mr. Baldwin, do you wish to pursue the subject I have been discussing, with the witness?

MR. BALDWIN: No, I don't think so, my lord.

THE COMMISSIONER: Mr. Braidwood?

MR. BRAIDWOOD: No thank you, my lord.

THE COMMISSIONER: Thank you, Mr. Schultz.

(Witness aside).

THE COMMISSIONER: Have you any rebuttal, Mr. Braidwood?

MR. BRAIDWOOD: Yes, my lord. I propose to call Mr. Eustace Smith.

THE COMMISSIONER: Is he likely to be lengthy? I think it is desirable to start him today, but I suppose it is too much to hope that he would be finished?

MR. BRAIDWOOD: I will be at least a half an hour with him, my lord--at least.

THE COMMISSIONER: Well, I think perhaps we might take a break for 5 minutes, and resume at half past four.

MR. BRAIDWOOD: I might say, my lord, I am only planning

on calling one witness, Mr. Smith, and your lordship might have in mind the continuation of the argument, as soon as we are through with Mr. Smith.

THE COMMISSIONER: I have no doubt that time might be saved if I give counsel the evening to get ready. I know it has been my experience that very often a little time apparently wasted results in a saving of time, in the long run. However, I am in your hands. If you prefer to go on with the argument now, then I am prepared to sit.

MR. BRAIDWOOD: I think probably we would like to conclude with Mr. Smith tonight, although I doubt that we can, because my friend probably will have a lengthy cross-examination.

THE COMMISSIONER: Very well. We will recess for five minutes.

(PROCEEDINGS RESUMED AFTER SHORT RECESS)

MR. BRAIDWOOD: My lord, you will recall that when the claimant was given permission to break his case a year ago, during the original Hearing, that the Crown was given permission to meet such evidence as would come in at this particular time. I have Mr. Smith here, who has formerly given evidence in this matter, and in this case, and I want to call Mr. Smith, generally, on the proposition before your lordship here.

THE COMMISSIONER: Very well.

EUSTACE B. SMITH, recalled,
testified further as follows:

THE COMMISSIONER: You may sit down, if you wish, Mr.Smith.

MR. BRAIDWOOD: I take it, my lord, it isn't necessary to qualify Mr. Smith again?

THE COMMISSIONER: No; we have had his qualifications.

REDIRECT EXAMINATION BY MR. BRAIDWOOD:

Q Mr. Smith, I understand that you have had a knowledge of the property concerned before His Lordship, namely the Deep Bay property?

A You mean, before this period?

Q Yes. Over a considerable period of time, is that not correct?

A I know the district very well.

Q I think the first reference I have of you being on the property would be 1923. Would that be correct?

A You are probably thinking of 195.

Q Over what period of years have you known the general property of the Deep Bay Company?

A About 15 years, I guess.

Q You have been on that property a number of times, I take it?

A Not very much. I cruised one piece that Mr. Kagetsu bought.

Q You knew Mr. Kagetsu prior to this time?

A Yes.

Q Did you know anything about the type of operation he ran?

A Yes, I know it was a railroad operation. He had about 7 or 8 miles of railroad, but it wasn't a very large outfit.

Q A little louder, please. Now, I have asked you, in

the past weeks, I think, Mr. Smith, to familiarize yourself with the document which is now Exhibit 61, that is, the Forest Inventory of C. D. Schultz & Company?

A Yes, that is right.

Q And you have made an examination of this Forest Inventory, have you?

A Yes, I have.

Q And you are familiar with it?

A Yes.

Q Now, I would like you to turn your attention, in the first instance, to the map at the back of this inventory, so that we might discuss with his lordship some of the features you find from that map. Has your lordship the map before you?

THE COMMISSIONER: Yes.

MR. BRAIDWOOD: Q: Now, I put to Mr. Schultz this morning certain figures obtained from four parcels, Blocks 263, 504, 276 and 274, and I suggested to Mr.Schultz, if you will recall, that his inventory showed a total of 17 million two hundred thousand feet.

A On which one?

Q On those particular parcels.

A 504; and what were the other ones you mentioned?

Q 263, 504, 276 and 274?

A Yes, I have got those, yes.

Q And I suggested to Mr. Schultz that those figures, co-related to the blocks on the map, as indicated by the colours, would indicate they might be called patches of timber, or that they might constitute

this property into what might be known as a salvage operation. What have you to say to that?

A That was my opinion of it, when I first looked it over.

Q Would you tell his lordship why you had that opinion?

A Because of the scattered nature. 617 and 566 carried the main bulk of the timber.

Q And 274 and 276?

A 276 only has a small piece.

Q And 274?

A These two were particularly good ones right here (indicating).

THE COMMISSIONER: The good ones you refer to are 617 and 566? A. 617 and 566.

276 was small timber, completely away from the road. It was hard to get at.

Q You are speaking now as at what time, Mr. Smith?

A 1943, my lord.

THE COMMISSIONER: Yes, go on, Mr. Braidwood.

MR. BRAIDWOOD: Q: Now, you have indicated that you thought this scattering of timber turned the operation into a salvage operation. Can you explain that any further?

A I can only say that they had been logging a little better than 15 years, I guess, and had naturally picked the best timber out of the holdings, and it was only reasonable to look at it as a salvage operation with what was left there. You can see by this map, which is well gotten up, the enormous logged-out sections, with still some to be pulled

out here. The steel had been taken up here (indicating).

Q The railroad was pulled out of 504, was it?

A The same year.

Q Was that so when you made your cruise in 1943?

A Yes.

Q The railway was out then?

A Yes, this piece of it (indicating). This wasn't (indicating). This was in, up to this point here, up to the spar tree.

Q How far had the railroad been extended in 1943?

A The total length of it?

Q Yes.

A I think it was about 7½ miles. That would be approximate.

Q And would the scattered nature of this timber have any effect upon the purchaser who might propose to buy the operation?

A Oh, it always has an effect on the man who is going to log it. It means more development for a smaller amount of scattered timber, you see.

Q Now, I think there are some photographs attached to the inventory, which are oblique photographs, according to Mr. Schultz. I wonder if you would look at those.

A I looked at those, and they are very good.

Q Have a look at those.

THE COMMISSIONER: Just before you go on with that, would Mr. Smith tell me to what extent the railroad had been pulled out then. I have it that it

had been pulled out of 504 in 1943.

Q Is that correct?

A At that time, yes. The main line was still in, this one (indicating) that swings up to the upper limits there.

Q Oh yes, I see. This is the main line, swinging up to the north-west corner?

A Yes, with the big curve at the end of it there.

Q And then it swings around to the south again?

A Yes, that is right.

Q So that the main line was still in it?

A Yes.

Q Were the other branch lines there? Were there any other branch lines?

A No, there were no other branch lines there. This shows the truck route (indicating). This is the truck road on the map there, here (indicating).

MR. BRAIDWOOD: Q: Now, Mr. Smith, are there any of the photographs which you have before you which give any indication as to what you have just been telling us about the scattered nature of the timber on this particular parcel?

A Well, I think they show it very well.

Q Perhaps you would point out to his lordship which photographs you consider show it very well.

A It is pretty hard to place these on the map.

Q Perhaps, in order to save time, we needn't locate them, actually, on the map.

A They just give a general picture of the whole area, but it would take a little while to get them placed.

Q Would you point out to his lordship why you think they illustrate the scattered nature of the timber?

A His lordship has looked at them?

THE COMMISSIONER: Q Yes.

A The first one "Looking northeast showing logging road, second growth, reproduction, and logged areas in Blocks 267, 198 and Lot 88."

Q My copy reads "Looking northeast, showing second growth and logged areas in Blocks 267, 276 and 266."

A This is 267, 198 and Lot 88. That is looking towards the booming ground at Fanny Bay.

MR. BRAIDWOOD: That is "looking northeast, showing logging road, second growth, reproduction, and logged areas in Blocks 267, 198 and Lot 88." I s that the one you have?

THE COMMISSIONER: No, that is not it. How does it read again? "Looking northeast, showing logging road, second growth, reproduction, and logged areas in Blocks 267, 198 and Lot 88"?

MR. BRAIDWOOD: Yes, my lord.

THE COMMISSIONER: Yes, that is the one. Mark that as "A".

MR. BRAIDWOOD: I don't think it needs an exhibit mark--just put the letter "A" on it.

Q Mr. Smith, referring, first, to that, can you point out to his lordship the features about it?

A It shows very little timber, because it shows Lot 88, which was the first limit he logged.

MR. BRAIDWOOD: The next one I have, my lord, is "Looking northeast, showing second growth and logged areas

in Blocks 267, 276 and 256." Fanny Bay is in the background there, my lord.

THE COMMISSIONER: Yes, I have it.

MR. BRAIDWOOD: We might mark that "B", my lord.

THE COMMISSIONER: Very good.

MR. BRAIDWOOD: Q: Now, Mr. Smith, what about that photograph? What does that illustrate?

A 267 and 276, it shows this large area that he marks as "logged". 276, 267 and 256, that shows it as practically all logged, and this picture illustrates it very well.

MR. BRAIDWOOD: Now, the next one, I think, my lord, is the only other picture with Fanny Bay in the background. It says, "Looking northeast, showing second growth, reproduction and logged areas in Blocks 256 and 198." We will mark that "C".

THE WITNESS: This is almost the same picture. That shows the same thing. It is practically all logged here (indicating). There is the second growth, here (indicating).

MR. BRAIDWOOD: The next one, my lord, is one showing a large cloud formation at the top, looking west, and showing the logging road.

THE COMMISSIONER: Yes, I have it.

MR. BRAIDWOOD: That will be marked "D", my lord.

Q Would you comment on that photograph, Mr.Smith?

A I am just trying to locate this road on it. That really covers most of the same ground we have had with the previous ones here. You see, there is the river, right here (indicating).

MR. BRAIDWOOD: Now, the next one, my lord, would be "Looking west showing second growth, reproduction, and logged areas in Lot 88". That will be "E".

Q Have you any comment to make on that, Mr. Smith?

A It shows the second growth up in the corner, which he has marked in here (indicating).

THE COMMISSIONER: Q: The second growth in which corner?

A That is on 88.

MR. BRAIDWOOD: Q: It would be the top left-hand corner of the picture, Mr. Smith?

A Yes. It is at the top right-hand corner of 88.

THE COMMISSIONER: Q: The top right?

A Yes, of 88. It does illustrate the ground very good.

MR. BRAIDWOOD: Q: And the last photograph?

A That doesn't show where the steep hill is in here (indicating), you see.

Q Now, Mr.Smith. I think you will agree with me those do not cover the whole area?

A They give a good rough idea of the whole terrain there.

Q Of what you have termed patches of timber area, is that correct? A. Yes.

THE COMMISSIONER: Is there any comment made on the last one? Is that "F"--"Looking west showing second growth"--etc.?

MR. BRAIDWOOD: I think the witness said it bore out the others.

THE WITNESS: It is much the same as the others. It shows right up to the mountainside there pretty well.

MR. BRAIDWOOD: Q: Now, Mr. Smith, I would like to have

you tell his lordship, briefly, the general nature of the terrain which is set out in the map before us, because we don't have topographical maps, you see.

A The main high ground lies on these two blocks here, where this road cuts through (indicating).

MR. BRAIDWOOD: The witness is pointing to the lower left-hand section of the map.

THE WITNESS: Yes, 617.

MR. BRAIDWOOD: Q: That is the high ground?

A Yes, that is the high ground. The rest of the ground is rolling country, and not particularly rough.

Q Would you say this ground was very high, or what?

A No, not very high, with the exception of this piece here (indicating). I should say from 400 to 1000.

Q What have you to say as to the accessibility of these scattered pockets of timber from a topographical point of view?

A At the time I looked that over in 1943, I didn't like that. There has been a big change since then, and it has paid to take out timber since then that you wouldn't look at in 1943. There has been a big change, mostly in the price you could get for the logs, and the logs they would accept. You couldn't sell a poor log prior to that, but the No. 3, a poor log, it has now a sale price.

Q You are telling us there has been such a change since 1943 that some of the timber you wouldn't look at in 1943 might now be merchantable?

A If I looked at it at the present time, it would make a difference to me from what it looked in 1943--all the difference in the world.

Q And you consider the viewpoint you took in 1943 in excluding some of these areas was correct?

A Yes, to the best of my ability. I might not have known then what conditions would be, but that was my opinion then.

Q What have you to say, Mr. Smith, as to the density of the timber in this particular area, when you examined it in 1943?

A Well, this was a good stand. It ran about 28,000 to 30,000 per acre, which is a reasonable stand. And this was scattered (indicating). It wasn't too bad in one or two places there, but it was separated from the rest of the operation.

Q Which is that?

A To the north end.

Q Now, I asked my friend, Mr. Schultz, this morning as to whether or not, in his opinion, Mr. Kagetsu and his company hadn't taken out the main easily-available timber, and Mr. Schultz, I think, agreed with me. What would be your opinion?

A That would go without saying. It is natural for a man to reach into his main, accessible timber, and take it out first.

THE COMMISSIONER: Q: Just before you go on with another topic, referring to the change in conditions which took place subsequent to 1943 that culminated in a very marked change in the subsequent years, was

there a great change between the conditions in 1943, as compared with 1944?

A Well, I don't believe so. Not very much. There was a change, and a gradual increase in value, and they would take logs in 1944 that they possibly wouldn't take in 1943.

Q The marked change occurred later than 1944?

A The biggest change, yes.

THE COMMISSIONER: All right, Mr. Braidwood.

MR. BRAIDWOOD: Q: Just to pursue that point, do I understand your answer to be that the biggest rise started in late 1944?

A Well, as far as I can remember, it did.

Q What about 1945? Were there rises then?

A It came up pretty fast then, but the big time was in late 1947 and 1948.

Q Would I be correct in assuming that the thing started at the end of 1944, and continued on through to the end of 1947 and 1948?

A Yes, you would be perfectly safe in that, I think.

Q I would like to discuss, for a moment or two, your opinion of the quality of timber present in this operation, Mr. Smith. You will see, from the timber inventory, that Mr. Schultz tell us there is a certain percentage of fir, cedar, balsam and hemlock, and the like. What is your comment on the quality of the timber?

A It was ordinary Vancouver Island fir, not very big, small to medium size, with a heavy percentage of No. 2, not much No. 1.

Q Yes. Now, I asked Mr. Schultz at some length about the presence of large stands of hemlock here. Would you say there was, or wasn't, a high percentage of Hemlock?

A There was quite a high percentage of hemlock. I didn't like the hemlock. There was quite a lot of conk among the hemlock.

Q You recall I referred his lordship and Mr. Schultz to page 800 of the transcript, in which you indicated it was not, in your opinion, merchantable at that time, in 1943?

A No, that was the poorest stuff on the high levels. It wasn't good.

Q I don't think his lordship heard that.

THE COMMISSIONER: Yes, I heard it all right.

MR. BRAIDWOOD: Q: And in your own cruise, Mr. Smith, how did you treat the hemlock?

A I eliminated a great deal of it.

THE COMMISSIONER: I think Mr. Schultz gave a percentage, did he not? Did he say this timber ran something over 40 per cent. hemlock?

MR. BRAIDWOOD: That was my understanding, my lord.

THE COMMISSIONER: Q: Do you subscribe to that?

A Yes, I think that is about right.

Q Is that unusual in a good stand of Vancouver Island timber?

A No, I wouldn't say it was unusual. In the E. & N. belt, it is probably a little higher than usual, with what is left, you see. The remnants are left at the back of the limit. The fir would be more

to the front, and on the southwest slopes, where it grows better.

MR. BRAIDWOOD: Q: Mr. Smith, if you will refer to page 3 of the Forest Inventory which you have there--

A Is this the one?

Q Yes. I am referring now to page 3 of the Forest Inventory. I suggest to you that an examination of this exhibit at page 3 would lead us to the conclusion --

THE COURT: Well now, suppose we get the witness' conclusions, rather than counsel's.

MR. BRAIDWOOD: It is really a matter of approach, my lord, it isn't really a conclusion at all.

Q Mr. Schultz says there was balsam and hemlock present, 18 inches DBH and over.

A Yes.

Q To a total of about 50 per cent., is that not correct?

A 21 million out of 40 million.

Q The percentages are shown in column 3?

A Yes.

Q Slightly over 50 per cent. for balsam and hemlock? That appears at page 3.

A That is right, yes.

THE COMMISSIONER: 73 per cent. up to 18 inches.

MR. BRAIDWOOD: We are not using the 12 to 18 throughout.

THE COMMISSIONER: Yes, I see.

THE WITNESS: That is 18 and over.

MR. BRAIDWOOD:Q:18 and over, are those over 50 per cent.?

A Yes.

Q Now, if you will refer to page 19, I think you will

find that of the lumber cut since 1945, that is, from 1945 to 1948, something around 24.5 per cent. is represented by hemlock and balsam, is that correct?

A Hemlock and balsam, yes.

Q While, in the first instance, there was about 50 per cent. hemlock and balsam on the property, since that time only about 24.5 per cent. of the actual cut has been in hemlock and balsam. Would you draw any conclusion from that for his lordship?

A I presume they would work on fir as much as they could, on account of the market for hemlock. That would be my guess.

Q How would that affect the condition as to the type of timber which is presently left on the property?

A The percentage of hemlock and balsam is higher, according to the report here.

Q By the way, Mr. Smith, you are a cruiser with long experience in the Province of British Columbia, are you not?

A I was once called an antiquated one, yes.

Q What is your opinion of the use of aerial photography?

A It is extremely useful for mapping. The government is getting out very accurate maps from their patrol. I have checked a lot of them, and they are very good.

As far as cruising is concerned, you can see the density of a stand. You are not able to make an estimate of quantity, but a person who is used to looking at them can distinguish foliage, to some extent, like heavy green for fir and light green for

cedar, and so forth. You might say it looks very heavy, but you can't give the particulars.

Q You would go along with Mr. Schultz, that it is an adjunct, but you need the ground cruise?

A Yes. It is a good idea to look at them to see if it is worth making a cruise of.

Q I want to know what is your opinion of the change since 1943, if any, in the practice of taking logs out, insofar as their diameter breast high is concerned. Has there been any change?

A Yes, a big change. They are taking out smaller timber. In fact, they have gone over logging roads, and taken out what has been left on the ground, and taking out that small timber.

Q Has there been any further utilization of the tree, insofar as the number of logs which can be taken from it is concerned?

A Yes, they will take a knotty top now, that they wouldn't take before. As you get to the top, they get knotty and smaller.

Q When did these changes arise?

A They have been gradually developing as the market would absorb them.

Q Were those conditions present in 1943, when you made your cruise?

A No, they hadn't started then. MacMillan's started in 1946, and went strong for small timber. The logger, himself, isn't losing money, but he wants to clean it up.

Q Is that what is known as the practice of clean

logging? A. Yes.

Q You say that is much more prevelant today than ever?

A Yes, there is no comparison.

Q Now, I asked Mr. Smith this question, and I would like to have your view on it, Mr. Smith. Is it possible that some of the timber which is included in Mr. Schultz's cruise would not have been included in 1943, had the cruise been made at that time, because that timber which shouldn't have been included in my submission couldn't have been economically taken out.

A Well, a cruiser at that time looks on it from a utilization point of view, as to whether he thinks it is marketable. If he thinks it is not, then he leaves it out, or if he does, he shows how much, which gives a complete picture of it.

Q You take the position now that back in 1943 you put in all the merchantable timber?

A I put in all the merchantable timber. It might have been a little low, but it wasn't very much out, that is, according to my opinion.

Q We had some discussion this morning about the possible cost of the new road into this property to replace the railroad, and to extend the operation, and the necessary cost of moving the dumping facilities. What have you to say as to those costs?

A It would be more or less a guess as to the cost of the road. I know it would cost, today, half as much again as it did when it was put in--that

second truck road, that took the place of the railroad. So, it would be half as much again. It would be hard to give an exact figure.

Q When you cruised in 1943, was there a new road needed then? A. Yes.

Q Was that an expensive proposition, or not?

A It was an ordinary thing. With the bulldozers they have, they can put them in fairly cheap.

Q What have you to say as to the cost?

A We figured $8,000.00 to $10,000.00 a mile for a good road, gravelled and surfaced, ready for heavy hauling.

THE COMMISSIONER: Q: Are you talking in terms of 1943?

A No, I would say 2 or 3 years later. It just came to my mind then. We had some experience.

Q Mr. Schultz has expressed the view of $6,000.00 a mile, that that was fair. Have you any comment on that?

A It would depend on how much surface work had to be done. The break-through could be done for probably $4,000.00, but heavy loads are on the big trucks, and you have to surface it.

Q You do not quarrel with his figure of $6,000.00 a mile?

A No. That is as close as I can get. It depends on the quality of the road, when it is completed.

MR. BRAIDWOOD: Q: What have you to say as to a new road in this area in 1943, that it couldn't sustain itself because it would have to go over a great deal of barren ground. What have you to

say as to that?

A I don't know just what you mean. It would be a disadvantage to go through a lot of vacant ground. It would depend on the amount of timber you reach with the road you have.

Q Have you any knowledge as to how much of the railway bed was used in the construction of the new road?

A I only know what I was told by Fletcher. They used 2 or 3 miles of it, and he wished they hadn't touched it. That is what he said, on account of the large amount of balasting they had to do.

MR. BALDWIN: My lord, that is hearsay.

MR. BRAIDWOOD: Q: You have no personal knowledge of it?

A I saw the road, and I know what a railroad with ties in is like, and to build it up and carry it over several places, I know what it would cost.

THE COMMISSIONER: Mr. Schultz told us what he had heard of how much they had used. It was four and a half miles.

MR. BALDWIN: That was as a result of his own investigations?

THE COMMISSIONER: Yes, I suppose it was.

THE WITNESS: I guess maybe that is right. That should be about right, I guess. I don't know exactly.

MR. BRAIDWOOD: I think there is some evidence to the

contrary, but that will come out in argument. One witness did give evidence of how much of the road was used.

THE COMMISSIONER: We have it from a man who did know what the facts were, in any case.

MR. BRAIDWOOD: Q: What about the need for a new log dump and new booming facilities? Was there such a need in 1943?

A That was necessary, with the change of the outlet, that is, the road. The outlet is a mile south of the old dump that Kagetsu had for the railroad.

Q And would those things be an expensive proposition?

A It wouldn't be particularly expensive, with so small an outfit as that. He had to drive in piles, and put in a house and float. I can only guess at it. Probably he could fix it up for $5,000.00, or something like that.

THE COMMISSIONER: Q: I did not hear your figure?

A $5,000.00 or something like that. It would depend on how good he made it.

MR. BRAIDWOOD: Q: Would this be a factor that a prospective purchaser of the operation would consider?

A He would consider anything like that that comes into the picture.

Q Now then, referring again to Exhibit 61--

A Is that this book here?

Q Yes. At page 20, I believe, and page 22, Mr.

Schultz has discussed certain stands of immature timber? A. Oh yes.

Q What is your opinion as to the value of those immature stands of timber in 1943?

A Well, in 1943, they were not considered very much. That would be just about the time, or just before the Sloan Report came out.

THE COMMISSIONER: Q: The Sloan Report was in 1945?

A 1945. After that time, people began to consider the possibility of growing another crop within a reasonable time that they could use, and it did develop a certain amount of demand for Crown-granted land that could be used for that purpose.

MR. BRAIDWOOD: Q: Was that demand present in 1943, to your knowledge?

A No. They had dropped all their acreage by that time.

Q I take it it was the usual proposition to let the land go back to the Government?

A The Comox people let some go back, and others let it go back, as soon as they had completed their logging, because of taxes.

Q In any event, because there was no thought of it in the trade, you gave no value to that in your cruise?

A No, I didn't give it any value. Today I might.

Q In 1943, did you consider it proper not to value it?

A Yes. Anybody would at that time, unless it was farm land. If it was, it had some value,

particularly on the island. This wasn't farm land, except a little piece near the mouth, there.

Q Are there any possible handicaps to anyone starting on an immature stand of timber? What are the objections?

A There have been some sales made during the last three years. I know one piece that was sold for $10.00 an acre, but it was logged 25 years ago, by the International Timber Company, which became the Elk River. It was very good ground, close to the road, and was sold at $10.00 an acre, after being logged.

Q Are there any risks that affect the value of immature timber?

A There is largely the cost, or the risk of fire in the new growth, and then there is always the chance of disease.

Q Of plant disease, and insects?

A Yes; though that hasn't been very serious so far.

THE COMMISSIONER: Q: The price of Government wild land is what? A. $5.00.

Q $5.00?

A Yes. Of course, in buying this, a lot would depend on what happened in the Legislature, whether it will be royalty-free, if you log a new crop, and there is so much comes into it.

MR. BRAIDWOOD: Q: Now, Mr. Smith, in actual relation to the operation on this property, do you think it would be necessary, because of the type of

operation which it is, to have any specialized equipment, or any certain types of equipment?

A Oh, I think it is pretty well standardized, the equipment required, for an operation of that kind, according to the outfit which has been very small, comparatively. Where there is a long haul, you want big trucks that will carry a big load, so your output can be kept up.

Q Now, prior to the B. C. Forest Management Act and the development of that general policy, what was the custom of logging companies in disposing of logged-off lands?

A The only idea would be, if they couldn't sell it to someone for farm land, they would simply drop it, and it would go back to the Government.

Q Therefore it would have very little, if any, value?

A They were not considered at that time to be of value.

Q That Act was passed in 1946?

A The Sloan Report was 1945, wasn't it?

Q 1945.

A Well, it has developed after that.

Q Now, Mr. Smith, I would like to have your opinion, as a cruiser, -- would you, in 1943, if you had been acting for either a purchaser or a vendor, have adopted the method set out in Exhibit 62, that is, the stumpage appraisal method of Mr. Schultz?

A You mean to that amount?

Q Would you have adopted that method for calculating

values?

THE COMMISSIONER: You mean the inventory method?

MR. BRAIDWOOD: The inventory method, carried to its logical conclusion in Exhibit 62?

A Yes, in specifying what I thought was the value and what wasn't.

Q You have seen Exhibit 62, I think, which is this document here, the stumpage appraisal of marketable timber?

A No, I don't think I saw this.

Q That is the document about which Mr. Schultz gave evidence yesterday afternoon?

A Yes, I heard him mention it quite often.

Q The witness was taking his end value, as I understand it, and working back to the stump price?

A It would be very hard to put a value on a thing like that today. There is no knowing what is going to happen in the future. I have seen about 6 or 7 depressions, and rises, in timber, and it naturally makes me cautious about making a statement.

Q Do I take it you wouldn't have adopted this particular method in arriving at a valuation in advising a client?

A I probably would have gone about it in another way. If that tract was intact, as it was when Mr. Kagetsu took it over, and all the timber was there, it would be a very valuable tract, because you would start from the beach and be in production from the start, and your development would

be carried out. Your timber would be worth $2.00 a thousand more. At least, that is just my opinion.

MR. BRAIDWOOD: Will you excuse me for one moment, my lord?

THE COMMISSIONER: Yes.

MR. BRAIDWOOD: Q: Now, Mr. Smith, you have examined Mr. Schultz's inventory, and I am not suggesting, between professional men, any criticism should be given, nor did we wish to ask Mr. Schultz any questions that were criticism of your method, but I should like your views on this: on the basis of the information you have before you now, and which you have seen, would you still take the position that your cruise, in 1943, was a proper one, and resulted in the proper figure as to what the property was worth as a timber concern, in 1943?

A Yes. With the information, I think that I would say the same thing. At the present time, with the improvement in logging methods, it would be a different story, as I told you before.

Q You say now the changes that have occurred since 1943 might have some effect on it today?

THE COMMISSIONER: He has said so before.

MR. BRAIDWOOD: Q: You stand behind your report of 1943?

A If I were to do it today, there would be a big difference.

Q You stand behind your report of 1943, which was

submitted in evidence here?

A Yes, at that time. But if you take in the next few years, it would make a tremendous difference, in war times.

MR. BRAIDWOOD: That is all, my lord.

THE COMMISSIONER: Thank you.

Yes, Mr. Baldwin?

MR. BALDWIN: I will be some time, my lord.

THE COMMISSIONER: Will you be more than half an hour?

MR. BALDWIN: I would say so, yes, my lord.

THE COMMISSIONER: Well, I had hoped that I could save you coming back tomorrow, Mr.Smith, but I guess not. We will resume at 10 o'clock tomorrow morning.

(PROCEEDINGS ADJOURNED UNTIL NOVEMBER 18, 1949, 10:00 A.M.)

"I hereby certify the foregoing to be a true and accurate transcript of the within proceedings.

I. D. Harrobin

Vancouver, B. C.

November 18th, 1949. 10.00 a.m.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

EUSTACE SMITH, resumes stand.

CROSS EXAMINATION CONTINUED BY MR. BALDWIN:

MR. BALDWIN: My lord, I am happy to say I think I can shorten this cross-examination considerably more than I thought would be the case yesterday.

THE COMMISSIONER: You have got all day, Mr. Baldwin.

MR. BALDWIN: Q: Mr. Smith, you made the examination, this general examination of the Deep Bay limits in 1942? A. '42 and '43, I think. I was up twice.

Q In your first letter to P. B. Ross & Sons, -- there is a letter dated the 16th August, 1943, .

THE COMMISSIONER: What is the exhibit number?

MR. BALDWIN: It is Schedule 2 to Exhibit 45, my lord. This is a copy of it. I am just referring to the first paragraph.

THE WITNESS: Right.

MR.BALDWIN: Q: Can you tellus what the occasion of that first examination in 1942 was?

A Why I did it?

Q Yes. A. Because I was asked to do it.

Q By whom? A. I got instructions from Frederick Fields.

MR. BRAIDWOOD: My lord, I would like to have the clarification of the Court as to the Crown's position in this

particular matter. My learned friend has already had one try at Mr. Smith on cross-examination in the general evidence and I would like your lordship's ruling, as to what boundaries my learned friend is bound by on this examination, which really only arises because I put Mr. Smith in the box in rebuttal evidence on my learned friend's delayed evidence. Is my learned friend allowed to reopen the whole matter.

THE COMMISSIONER: There is something to that, Mr. Baldwin, what have you to say?

MR. BALDWIN: Our position on that is ths. We have put in Mr, Schultz' cruise, The Crown has rebutted it by Mr. Smith's cruise-- and Mr. Smith's examination and I think all relevant examination can be quite wide on Mr. Smith's examination; his examination is in rebuttal.

THE COMMISSIONER: The point is you have already had Mr. Smith in the box under cross examination.

MR. BALDWIN: That is so, my lord.

THE COMMISSIONER: Why should you be allowed to cover the same ground again?

MR. BALDWIN: Well, it is not exactly the same ground entirely.

THE COMMISSIONER: I will leave it with you, as long as you relate your present cross-examination to matter that has arisen as the result of Schultz' evidence, plus whatever Mr. Smith had to say yesterday. I cannot see any force in your recovering

exactly the same ground that was covered on the previous cross examination.

MR. BALDWIN: Yes, my lord.

THE COMMISSIONER: I leave it to you to limit the cross examination broadly in the terms which I have indicated. I do not propose to hold you down too tightly, but we don't want to go over a lot of ground we have already covered.

MR. BALDWIN: I appreciate that, my lord. This, I think, arises fairly enough from my learned friend's examination in chief yesterday.

Q I am afraid I didn't hear your answer?

A What was the question?

Q The occasion of this cruise?

A Well, I was instructed by the Custodian to examine the timber and see what timber was there.

Q That was on the occasion you were there in 1943?

A Yes, and I was on in 1942, but 1943 was the finish.

Q Well then, you were there in the two years, 1942 and 1943? A. I don't remember the exact date, but I was there in '42.

Q Having seen your letter, it was in '42.

A I expect so.

Q That examination made in 1942, who was it made for?

A The same people.

Q For Frederick Field?

A Yes.

Q Although your report is not made until 1943?

A Not the final report, no. Some of the work I did in '42.

Q You did not cover the area which is shown in Mr. Shultz' report to be second growth on that cruise? A. You mean young growth?

Q Yes. A. No, I didn't figure it at all; that is the young stuff.

Q I think you told us yesterday that several companies were from 1936 on in the habit of keeping their ground after they logged it?

A Yes, most of them did, yes.

Q Most of them did?

A Yes.

THE COMMISSIONER: You refer to a letter written by Mr. Smith in '43, as part of Exhibit 45. I don't find it.

MR. BALDWIN: I think there are several volumes, several of those reports which make up Exhibit 45, and it is contained in the one which is the Deep Bay Logging Company report on liquidation, the 15th of March, 1945.

THE COMMISSIONER: Is it incorporated in P.S.Ross' letter?

MR. BALDWIN: It is schedule 2.

THE COMMISSIONER: I have got it now -- I am sorry.

MR. BRAIDWOOD: My lord, I do not want to interrupt my learned friend again, but I didn't get the date on his last question, that question relating to the practice of companies of people holding or letting their logged off lands go back to the government-- the date?

(Question and answer read by reporter.)

THE COMMISSIONER: Keeping it?

A The large companies -- yes, kept paying taxes on it to hold it.

MR. BALDWIN: Q; Do you know what is happening to these blocks. Do you refer to 276 for example; that is the small green area . Perhaps it would be of assistance if I showed you Exhibit 61. Now on the map which is at the back of Exhibit 61, there is green timber shown on the south of Lot 276?

A Yes.

Q You were not on that?

A I was on it, just went beyond the lines and saw there was a piece of timber there.

Q It is true, is it not, that area there --

A; Carries some small timber.

THE COMMISSIONER: "That" or "there" will not mean anything on the notes.

MR. BALDWIN: Q: That green area to the south of 276, is being operated in connection with other E. & N. timber? A. Not that I know of. Has this happened since?

Q Yes. A. Well I don't know, it might easily be. If somebody is logging here (indicating) they might do that.

Q And does the area shown in green on this plan --

A This particular piece.

Q No, the whole plan; that is the whole of it at the back of Exhibit 61. Does it correspond roughly with what you found.

A Pretty much the same. It is pretty well gotten up,

this map. It shows about what I looked at.

Q I am referring to the area in green?

A I know.

Q I am not including this bright red area?

A The bright red area is what is logged since.

Q Yes. A. Sure. I was over that.

Q Did you find timber on the area that is marked on this map in bright red?

A Yes, I found some timber there.

Q And assuming an average yield on say, 30,000 acres, -- I think you told your lordship yesterday that was what you had found?

A On the whole thing, no. I didn't say 30,000 all over.

Q I misunderstood you then?

A No. Some of it ran 30,000.

Q What is "this"?

A That is on 617 and 566.

Q What is the minimum area in your opinion that makes an operation an economic operation?

A You might have a piece close to the waterfront that you could take one million feet and it would pay him to take it out with a very short haul.

Q I am speaking of an area now -- you would not call 994 acres a small patch, would you?

A No, I would not. Of course, in this particular case most of the best timber has been taken off. This map shows it. It illustrates it very well, and shows they logged both sides at 276 and they left it --

Q I am not referring to 276. I am over here in 417 and 566 and I point out it is all contiduous. It is a solid block of timber?

A Yes, that was the main bulk of my timber.

Q There is a nice block of timber?

A Quite right.

Q And the other area to the north is also a solid block? A. Yes, that was scattered -- all small timber mostly; that is on 504 .

Q 504 -- 263? A. And a little bit of 274.

Q And a little bit of 234 too?

A Yes, to get to it we had a line down there and logged on both sides of it.

Q I suggest that the line that was in before, was roughly speaking, between the two, between these two areas down here in 274?

A Yes.

Q He didn't have a line up here?

A He had a line right into here, into the creek.

THE COMMISSIONER: Q; When you say "in here", you mean the north-west corner?

A Right there to the boundary, to the Chemainus block.

Q Is there a line shown on the plan, Mr. Baldwin?

A It shows a dotted line there, your honour. You see -- there is the old roads again and there are old roads on this.

Q What is the line? A. That he had before.

Q That runs generally north-west to the north-west

corner of the plan. Do you see it on your map?

A There is a dotted line. That was an old railroad grade. You notice that from the end of the big bend in the new road.

THE COMMISSIONER: I see what you mean.

MR. BALDWIN: I confess I don't.

THE COMMISSIONER: Q; To the west of 584. Is that what you refer to?

A Yes, it is marked all along.

MR. BALDWIN: Q: Down in this yellow area?

A This is the old steel. That was a switchback there.

THE COMMISSIONER: Q: You are speaking of the orange area because there is one yellow more to the right?

A That is felled and bucked that bright yellow.

MR. BALDWIN: Q: The dotted lines which you were referring to is the steel that was pulled out of this area in orange? A. Yes.

Q Involving the west part of 584 and 274?

A Yes.

Q And the south-west of the main block of 584?

A He also had a line in here and took that out on his north side.

Q 234? A. And yes and some of 263.

Q You would not suggest to his lordship, that an area of 652 acres is a patch, would you?

A Yes, at the time that I looked at it it did not look feasible or a valuable tract of timber. It did not have value.

Q But a 652 acre area--

A It had to be redeveloped.

Q It is not a patch, is it?

A No.

Q 652 acres? A. It is a pretty good size.

THE COMMISSIONER: What do you mean by redeveloped?

A Well, that there had to be a road put in there to get from the main line. He had apparently pulled out of that district.

MR. BALDWIN: Q: It is true you have to build roads to get any timber up?

A Yes, but after --

Q There is nothing peculiar about putting the road in?

A But after pulling out his road it didn't look as if he was going to take it and he apparently did not like the looks of it at that particular time of the market.

Q That is a matter of argument.

A Yes, it is a matter of management.

Q And it may be that there are all sorts of reasons for pulling his steel out in the southern area between the two and going down into 617?

A Yes, it might easily be.

Q For instance you may be short of rail?

A But you don't usually figure on going into that particular district again, because that timber was not very good. It was small timber and scattered.

Q If you refer to that map again, you will see two bays there, salt water, Fanny Bay?

A Yes.

Q And the one around the corner to the south, Mud Bay?

A Yes.

Q Now there is a dump -- there was a dump at Mud Bay?

A Fletcher put the dump in there.

Q When? A. When he put this road in.

Q I suggest the dump was there in 1942?

A I did not see any.

Q Were you down there?

A Yes, sir, I passed it. This was the main dump of the whole operation.

Q At Fanny Bay yes, but there was a dump already built at Mud Bay?

A There was an old dump by Grenvilles. They delivered logs for some time. It would not be any good at this time.

THE COMMISSIONER: Yes, Mr. Baldwin?

MR. BALDWIN: I am sorry, my lord, may I have a few minutes.

THE COMMISSIONER: Yes.

MR. BALDWIN: I have nothing further, my lord. Thank you, Mr. Smith.

MR. BRAIDWOOD: One line of questions, my lord.

THE COMMISSIONER: Yes.

MR. BRAIDWOOD: Arising out of my learned friend's cross-examination.

RE-DIRECT EXAMINATION BY MR. BRAIDWOOD:

Q Now the question that you were discussing with my learned friend, Mr. Smith of the large companies having kept their logged off land -- when did that

practice first commence?

A Well, I would judge it was almost immediately after the Sloan Report on reproduction.

Q What date would that be?

A I have it in the office, but I don't remember the date.

Q You see, I think in answer to my learned friend's question he asked you whether that practice commenced in 1936?

A No, 1946 he said.

Q I am sorry, he said 1936 ?

A I took it for '46. I thought that was late enough.

Q Your remarks directed to '36 to my learned friend were not correct?

A No, everybody knows it was after the Sloan report, and you can get that date.

RECROSS EXAMINATION BY MR. BALDWIN:

Q In view of the misunderstanding, Mr. Smith, I would like to get this clear. Is it not a fact that a great many of the larger companies have retained their lands from 1925 on?

A Well, of course, like the Comox Logging Company owned those limits since 1912 and most of them they kept, but they sold off a lot around Oyster River and the Merville District. That was all in their district and that was farmed --

Q But they have retained the rest?

A Most of the big blocks like 29 were not completely logged until -- I don't know that it is completely

logged yet. I think that Chemainus dropped a big one back of Ladysmith; that is section 1 and they still hold up the Chemainus River. It is not completed; the logging is not completed there. The International dropped a lot of theirs. That is now the Elk River timber.

Q And they sold a lot of this logged off --

A They sold some and they bought 640 acres last year for $10.00.

Q The point of the thing is those companies did not abandon their lands?

A A lot of them did and some of them didn't.

Q A lot of them did and a lot of them didn't?

A That is right. You see a lot of them -- it was not completely logged, and they could not drop a portion very well of a big lot like 29 --back off Comox. They hold it until they complete the logging. Now I think they hold it altogether.

Q Can you suggest any reason why Mr. Kagetsu would pay taxes on all these areas down here?

A The map shows he had not logged off all those areas. He would have to hold them.

Q I suggest to you that very roughly speaking to about the middle of this map from the north side line ,all of it had been logged?

A That is all logged and it dropped north of it. It had to go back for taxes. It kept a small piece of it.

Q There is quite a large piece?

A 88 acres is a big block. He dropped 2500 acres I

think, in there,

Q Out of a total of what?

A Out of a total of about 3500, a little over 3,000.

Q There is a great deal more than 3,000 acres in this area? A. Yes, I am not talking about this, but about 88.

Q For the purpose of clarity all this area which is in orange has been logged?

A That is right.

Q And the taxes have been paid and it still belongs to Kagetsu?

A I presume it does.

Q If he has paid the taxes on all this land?

A Yes.

Q And all the land that is marked in purple, in reproduction, in the key here --

A Yes, this would be handy. It is up here.

THE COMMISSIONER: Will you put your voice a little higher. I have difficulty in hearing you.

A Yes, my lord. Might I make a remark on that?

THE COMMISSIONER: Yes.

A What I want to say is, at the time I looked this over, we did not figure that was of any value. It has come to a time now when they do consider it of some value; that is, all logged off land. Where it grew good timber before it will probably grow it again.

MR. BALDWIN:

Q That was your opinion?

A Yes.

Q That was your opinion. And lots of companies were of a contrary opinion. They kept their land?

A No, it was not a contrary opinion.

Q Well, I suggest to you if the land was not of value they would not have paid taxes?

A After they completed the logging a lot of them let it go and some of them held it.

Q A lot of them didn't?

A I don't know their reasons for doing so.

THE COMMISSIONER: Q: Just let us clear this up. To your knowledge which of the larger operators did maintain a policy of holding the logged off lands?

A I would say the Comox Logging Company probably kept most. The Chemainus dropped a big lot back of Ladysmith. They are a very old firm. They dropped them nearly twenty years ago, I would say.

Q Do you recall, or can you name any other companies that did hold their logged off lands?

A I don't think any of them held all the land they had. They sold off portions for farm purposes. Some were sold for $3.00 and $5.00, close to the main road at Merville where the big fire was.

Q Any others? A. Well, there is only about -- I think all the small loggers dropped theirs before that period. There is only three big companies on the south-east quarter of Vancouver Island.

Q Did Bloedel log any E. & N. timber?

A Wait until I think. Most of his operations were at Menzies Bay. They were above the E. & N. belt.

Q As far as you know they had no E. & N. land?

A They bought one piece of Central Lake and I don't

know whether they held it or not -- 204-- but the rest of it was all government land.

Q Do you know what policy the International timber adopted so far as logged off lands?

A I think they dropped a lot of it, but they still have some left.

Q That would cover all the big operators on the Island?

A Maybe Bloedel -- the I.T. or Elk River; the Comox and Chemainus they would cover the Big Four on the south west quarter of Vancouver Island.

Q There is another big operator somewhere near Campbell River, who ceased operations?

A That is the Campbell River Timber Company. Well, that was all above the 50th parallel.

Q It was? A. Yes.

THE COMMISSIONER: Do you wish to pursue that. I happen to know who most of those operators were and I was anxious for my own information to find out what policy each of them adopted. You may proceed from there if you wish to.

MR. BADDWIN: Q: Mr. Smith, you spoke of some of those operators dropping these lands?

A Yes.

Q That was some time ago?

A Yes.

Q Twenty years ago? A. Whenever they completed logging the timber up to ten years ago. It would be different times -- I would not know. The Campbell River company timber was held by

Bloedels, so that was one of the big four as well.

THE COMMISSIONER: Thank you, Mr. Smith.

(Witness aside)

THE COMMISSIONER: I understand counsel would prefer to adjourn the session now and have the argument come on tomorrow or Monday, rather.

MR. BRAIDWOOD: Perhaps I had better put it into the record that is the Crown's rebuttal evidence, just to close the Crown's case.

THE COMMISSIONER: Yes, I undestood that was the statement you made at the beginning of it. I took too much for granted.

MR. BRAIDWOOD: As far as the government are concerned, we are ready to go ahead with the argument at your lordship's discretion. I understand my learned friend has spoken to your lordship on another matter. Whatever your lordship sees fit is satisfactory to the Crown.

THE COMMISSIONER: There will be an adjournment as soon as we are through here, until Monday at ten o'clock.

So far as the settlement proposal is concerned which is the subject of memoranda filed on November 18th by Mr. Brewin for the claimant -- I should say November 18th,1948, and Mr. McPherson in December 1948 in which they outline a recommendation to myself that certain features of the claim should be dealt with on the basis of a payment of $8,000.00-- perhaps I had better enumerate the items in the claim--those items being item 3,-- item 4, item 5 and item 8 which according to Mr. Brewin covered

claims for a total of $27,764.02. Counsel jointly recommend that I should recommend a payment of $8,000.00 in respect to that claim. Since we opened a few days ago I had an opportunity to consider the material that has been introduced on those features of the claim, and I am prepared to concur in counsel's recommendation so that there will be no necessity for any argument under those four items.

MR. BRAIDWOOD: My lord, I think merely for the purpose of the record, I would like your lordship to incorporate in the record that those items apply also to items 3, 4, 5, and 8 on the amended claim as of November 16th, 1949. They are identical items but since the amended claim was not before counsel at that time, I would like that to be stated.

THE COMMISSIONER: Yes, that clarifies the situation. Is there anything further today?

MR. BRAIDWOOD: No, my lord.

THE COMMISSIONER: Very well, we will adjourn until Monday at ten o'clock. I would like to see you in my Chambers, Mr. Braidwood, in regard to other matters in connection with the Commission which will have to be discussed probably later on.

(PROCEEDINGS ADJOURNED TO NOVEMBER 21st, 1949 AT 10.00 A.M.)

I hereby certify the foregoing to be a true and accurate report of the said proceedings.

D. F. Saunders

Deputy Official Stenographer

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