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1726 Japanese Claims Commission re: Deep Bay Logging and  
C. Kagetsu. (1947-1948)

26-17

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ORIGINAL ORDER



U. 1

control or management of any person other

IN THE MATTER OF THE "ENQUIRIES ACT"

AND

IN THE MATTER OF ORDER-IN-COUNCIL P.C. 3737, dated  
17th September, 1947.

AND

IN THE MATTER OF DEEP BAY LOGGING COMPANY LIMITED  
AND EIKICHI KAGETSU

subject matter, viz. B R I E F

- (1) Timber limits:
1. The terms of reference herein are, inter alia that the Honourable Mr. Justice Henry Irvin Bird be appointed the Commissioner pursuant to the Enquiries Act..... to enquire into the following claims of persons of the Japanese race who are resident in Canada at the date of this Order, namely,
    - (a) That real and personal property vested in the Custodian pursuant to the above-mentioned orders was disposed of by the Custodian for less than the fair market value thereof at the time of sale resulting in loss to the claimants equal to the difference between the amounts received from the sale and the fair market value aforesaid; and
    - (b) that personal property vested in the Custodian pursuant to the above-mentioned Orders was lost, destroyed or stolen while in the possession or under the control of the Custodian or some person appointed by him, with the result that the claimant suffered a loss equal to the fair market value of the property at the time when the same was lost, destroyed or stolen; provided that no claim shall be considered in respect of property lost, destroyed or stolen while under the custody,

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control or management of any person other than the Custodian, appointed by the owner of the property.

The Commissioner has ruled that he will hear the claim of the above Company and of Mr. Kagetsu at the same time by reason of the interlocking interests. Presentation of our case will therefore best be by subject matter, ~~e.g.~~ i.e.,

- (i) Timber limits:
  - (a) Block 195, Cowichan Lake,
  - (b) Deep Bay Logging Operation.
- (ii) Logging Equipment.
- (iii) Urban Real Estate.
- (iv) Automobiles.

Broadly speaking, we will say that the Custodian did not receive the fair market value of the assets of these claimants which he sold because the sales were not by a willing vendor to a willing purchaser. We can, with little difficulty show that Kagetsu, had he been left in possession, would have been a willing vendor only at prices greatly in excess of those realized in fact by the Custodian. And we can also show that the Custodian, not being equipped to himself make the best use of the properties by operating them in a normal fashion, was not a willing vendor. (See cross-examination of C.E. Holt, senior partner of P.S. Ross and Sons Ltd. at pages 63, 64 and 65 of the General Evidence given on October 12th, where he states in essence that (1) the Custodian's policy in liquidation conformed with the practice of P.S. Ross and Sons in liquidations and windings-up, and that (2) that unless the business being liquidated is carried on for some time by the liquidator the sale may be regarded as a forced one).

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The phrase "willing purchasers" means "anxious purchasers" (see King vs. Thomas Lawson 1948 Exchequer Court Reports at 87 per <sup>Phorson</sup> P. "the owner is entitled to that which a prudent man in the position of being owner would be willing to give for the land sooner than fail to obtain it" and we say that purchasers who bought the assets of this company and Mr. Kagetsu were not anxious purchasers because (1) the Custodian's advertising <sup>was inadequate, insufficient to stimulate</sup> ~~was inadequate, insufficient to stimulate~~ normal competition; (2) there was at the time a general idea that the assets of Japanese who had been moved from the Coast were to be had and should be had for a relatively small price; (3) the market was not normal in that many more of these assets were for sale than would usually be the case because of the Japanese evacuation.

#### TIMBER LIMITS

Our attack on the Custodian is threefold:

- (1) The quantities <sup>in fact</sup> ~~impressed~~ and sold by the Custodian were greatly in excess of the quantities forming the basis for the sale;
- (2) The prices per thousand feet <sup>board</sup> ~~board~~ measures for the stumpage on the limits in question were lower than the <sup>going</sup> ~~growing~~ price at the time of the sale by the Custodian by about ~~\$1.00~~ <sup>\$2</sup>.
- (3) The Custodian quite gratuitously depressed the price which his purchasers were willing to pay and also reduced the number or probable purchasers by stipulating in the agreements for sale that the purchasers must immediately enter on the limits and <sup>and continue</sup> ~~commence~~ logging operations. This, of course, was at the request of the Timber Comptroller and a certain consequence was to eliminate purchasers having the idea of buying as an investment. In view of the

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upward trend in timber prices at the time, the inclusion of this onerous condition in the agreements for sale and in the advertisements would seriously depress the price receivable. We say the Custodian's sole duty was to obtain the best possible price for the timber and that his arrogating to himself the powers of the Timber Comptroller was not merely carelessness or negligence but a wilful breach of faith.

#### LOGGING EQUIPMENT

Generally as to this we say, of course, that it was sold at much less than its fair market value. This is substantiated by the fact that it was sold for considerably less than the appraisal made by the Custodian's own appraisers, The Universal Appraisal Company, Mr. Skelding, who based his appraisals on the amount that he considered the Custodian should be able to get on the sale thereof at the time. On the items that the Custodian had difficulty in disposing, he had second appraisals made which revised the figures downwards. ~~The~~ sale prices received were universally far below even this second appraisal.

We say as to the disposal of the logging equipment:

1. The appraisal made by Skelding originally, and certainly the appraisal made by him in conjunction with Smith, in which the figures were revised downward, were based on what the appraisers thought the Custodian could get by selling the machinery and equipment piecemeal in Vancouver. These appraisals therefore are too low because the fair market value of this equipment, we say, is its value in use on the operation. We say that that is the price which a willing vendor would have accepted.

2. The whole history of the disposal, and the attempt of the Custodian, to dispose of the logging equipment, shows that the Custodian was not a willing vendor. He unloaded the pieces piecemeal and, when he could not

fair concern  
destroyed

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obtain the prices at which the machinery and equipment had originally been appraised, he obtained further appraisals, lower ones, to justify his sale and even these lower appraisals did not justify his sale as they were in fact higher than the prices at which the Custodian unloaded and got rid of the balance of the logging equipment;

(3) We say that the fact that the Custodian did not find a purchaser to buy the operation and the equipment in use does not mean that the fair market value is the price which the Custodian was able ultimately to obtain, because, in addition to (1) and (2) above, we say that the purchaser was not a willing or anxious purchaser.

#### URBAN REAL ESTATE

The general arguments above outlined as to what is fair market value apply here, but not with the same force because the appraisals by the Custodian seem, in this case, to have been on a correct basis and the discrepancy between the appraisal amount and the sale price is in no case great.

#### AUTOMOBILES

Here our main criticism is that the Custodian's appraisals were very cursory and not in enough detail to enable him to gauge whether or not the prices offered were adequate.

#### CONCLUDING NOTE TO GENERAL REMARKS ABOVE

Our argument is based on the analogy between expropriation or compensation proceedings and the proceedings under this reference, and of the meaning of the term "fair market value" is taken from the cases on expropriation proceedings. However, the analogy is not complete and the Custodian may well point that out in his argument. The big difference is this, in expropriation the property in question is never put up for sale and therefore the term "fair market value" must be defined theoretically and the fair market value in each case is arrived at by theorizing as to the price which a

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willing vendors would be willing to accept from a prudent and willing purchaser who will pay this price rather than fail to obtain the property.

Under this reference, while we must still theorize as to the amount at which a willing vendor would be agreeable to parting with his property, there is, in fact, some concrete evidence of what the purchaser is willing to pay, and the Commissioner will no doubt be influenced by the prices actually paid by the purchaser in varying degree according to the adequacy of the Custodian's advertising and so on.

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III. TIMBER LIMITS.

OUTLINE OF ARGUMENT.

(A)

- I. Our general position (see first Brief)
- II. Personal claim re houses and automobile
- III. Timber limits:
  - (A) Quality and Quantity
  - (B) Stumpage prices.
  - (C) Custodian's failure to sell to best advantage.
- IV. Equipment (See settlement)
- V. Law

(d) Kogetsu at page

(e) Pretty at page 640

(f) Byers at page 265

(g) Schultz at pages 511, 521, 524, 529, 536.

2. Block 1734 Quantity

(a) Estace's 1923 cruise showed roughly 30,000 M feet. He cruised merchantable timber only; this estimate was therefore based on the 1923 market when utilization was very poor. His 1940 report (Ex. 53) was merely a check on one portion of the Block and was on the same basis as the 1923 cruise. He added about 1,000 M feet in his check report. The 1940



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II. TIMBER LIMITS.

(A) QUALITY AND QUANTITY.

1. Block 195: Quality:

(a) Eustace Smith's 1940 report (Exhibit 53).

Read this.

(b) Sheehan's cruise report.

(c) Shaw went in for peelers *who say so*

(d) Kagetsu at page

(e) Pretty at page 643

(f) Byers at page 265

(g) Schultz at pages 511, 521, 524, 529, 536.

2. Block 195: Quantity:

(a) Eustace Smith's 1923 cruise showed roughly 30,000 M feet. He cruised merchantable timber only; this estimate was therefore based on the 1923 market when utilization was very poor. His 1940 report (Ex. 53) was merely a check on one portion of the Block and was on the same basis as the 1923 cruise. He added about 1,000 M feet in his check report. The 1940



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report states "Eustace Smith's original cruise 1923 checked by above 1940 was definitely conservative." The fact that

- (1) Smith's practice has been to cruise merchantable timber only and that the basic cruise of 30,000 M was made in 1923 when both logging equipment and the state of the market made it uneconomical to take out anything less than roughly 20" D.B.H.
- (2) by his own description the cruise is "low" accounts for the discrepancy between his cruise and those of Sheehan and Schultz.

(b) Byers, P.257: See Allison P. 366.

- (b) Sheehan's Cruise (Ex. 5) shows roughly 50,000 M feet and his statement (in Ex. 36) recanting made to oblige Smith is obviously done for that purpose and is not convincing.

- (c) Schultz's Stump Cruise shows 55,000 M. This was a 4% examination of the whole area in which every stump was measured (Schultz P. 512).

Stand was uniform and that being the case the 4% examination is just as accurate as a more intensive coverage (see Schultz's evidence at P.515). See Smith at 792

A liberal allowance was made for breakage and cull (Schultz P.513).



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4. Deep Bay: Quantity:

The examination was of all stumps 12" D.B.H. and over,  
the breakdown of size is 18" D.B.H. and over 50,000 M,  
12" to 18" D.B.H. 5,000 M (Schultz at P.594)

3. Deep Bay: Quality:

(a) Scale summary to the end of July 1948 (Ex. 22) shows  
9.47% No. 1, 63.63% No. 2 and 26.9% No. 3 Fir.

The fir and cedar together constitute about 75% of  
the stand. The October scale showed an improvement  
in fir. 1942 cruise to which Smith refers was made  
from the point of view of a buyer not a seller.

(b) Byers, P.257: See Allison P. 366.

Mr. Smith had satisfied himself of the minimum  
this cruise and was not much concerned that the extra eight  
he. This is evident in the whole report and  
particularly in paragraph 5 where he says "Let  
617 is practically intact and my check would indicate  
that the cruise of 7,298 M feet is all there."

(b) Schultz's Report

Forrestation inventory of December, 1948: This  
report speaks for itself. It is a very painstaking  
and complete analysis of the quantity of timber  
and to state that it is still good and no less than  
said by the evidence to McMillan. Points  
were taken for further investigation

1. It is a thorough examination of the ground  
supplemented by an accurate map compiled from  
aerial photographs and the outlines of the timbered  
areas and to provide the density of the stands.



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4. Deep Bay: Quantity:

- (a) Eustace Smith's report of the 16th August, 1943 (in Ex. 45) did not purport to be the result of more than a perfunctory general examination in 1942 based on the E. & N. cruises. Paragraph 1 of his letter states "I made a general examination of the timber that was still remaining when this operation was closed down early in 1942 and while this was not a systematic cruise, the check I made should give a fair idea of the amounts accessible.

The 1942 cruise to which Smith refers was made from the point of view of a buyer not a seller. Mr. Smith had satisfied himself of the minimum and was not much concerned what the extra might be. This is implicit in the whole report and particularly in paragraph 5 where he says "Lot 617 is practically intact and my check would indicate that the cruise of 7,298 M feet is all there."

- (c) It is submitted that the reasons for the wide discrepancy between Mr. Smith's report and Mr. Schultz's are:

(b) Schultz's Report:

1. ~~Forestation~~ inventory of December, 1948: This report speaks for itself. It is a very painstaking and compendious analysis of the quantity of timber which was on the Deep Bay limits at the date of the sale by the custodian to MacMillan. Points especially worthy of notice are:

1. It is a thorough examination of the ground supplemented by an accurate map compiled from air survey showing the outlines of the timbered areas remaining and the density of the stands.



2. It has the additional advantage of having had the margin for ~~area~~<sup>total</sup> reduced by the cut which in November, 1948, had already <sup>exceeded</sup> ~~xxxxxx~~ Eustace Smith's estimate of what was on the whole area.
  3. The volume calculated is after liberal deductions for breakage and cull (average cedar and hemlock 30%, balsam and fir 20%).
  4. P. 5 of the report, paragraphs 3 and 4 show the recoverable timber of 18" D.B.H. and over as of the date of sale to have been 56,520 M. In addition to that there was at the date of the cruise remaining a net recoverable quantity of timber 12" to 18" D.B.H. of 3,302 M.
- (c) It is submitted that the reasons for the wide discrepancy between Mr. Smith's report and Mr. Schultz's are inter alia:
1. The Smith report was a rough check only and concerned merely to ascertain the minimum of the limits. The Schultz report was made to ascertain all the merchantable recoverable timber on the limits.
  2. The Smith check was made by Mr. Smith with one man over a very large area. The Schultz report was made by a crew of half a dozen and it was very much more accurate as to the areas by reason of the planometric survey compiled from air photographs showing the extent of the timbered areas.

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3. Smith's estimate was merely a check on the E. & N. cruises made at a time when by Mr. Smith's own evidence their cruises were not at all reliable, and notoriously low in estimated volume of timber.

(B). STUMPAGE PRICES.

1. The preliminary point to be settled here is the dates of the sales. During the hearing Government Counsel indicated that he would contend that the dates of the two Agreements for Sale were not, in fact, the dates of the sales and we said that in the absence of proof positive to the contrary, the dates of the documents must be taken as being the dates of sale.

As to Block 195, the Agreement for Sale was dated 28th June, 1943 and the Government has not called any evidence to rebutt this date.

As to Deep Bay, the Agreement for Sale was dated the 13th March, 1944; Mr. Field, during his examination in chief at pages 750 and 751 stated that tenders were opened on the 31st August, 1943, but nothing was done by way of acceptance pending the receipt of Mr. Smith's report. At page 926 of the transcript Mr. Shaw, in reply to Government Counsel, confirms that in the period prior to March 13, 1944, "it was a question that the Government would either accept or refuse the offer". In other words, the offer had not been accepted. Elsewhere in his evidence, Mr. Shaw stated that no letter of acceptance had been received from the custodian. We submit, therefore that there is

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evidence in the one case that the MacMillan offer was not accepted prior to the Agreement for Sale and in the other, there is no evidence to rebutt the presumption that the sale was concluded on the date of the Agreement. The Statute of Frauds would require some memorandum in writing of the Agreement and there is no evidence even of a verbal understanding.

2. Block 195 was sold to the MacMillan Company on the 28th June, 1943, as 31,000 M for \$93,000.00, i.e. an average rate of \$3.00 per M. In view of the fact that this was an exceptionally fine stand of timber, the claimant originally valued it at \$5.00 per M. and on the basis of the quantity established by the Schultz stump cruise - 55,000 M, the claim was put in at \$275,000.00. After reviewing the evidence carefully, however, the claimant has felt that he should amend in accordance with the evidence to claim at \$4.50 per M, making the valuation \$220,000.00 and his claim for loss \$127,000.00.

BASIS OF CLAIMANT'S VALUATION.

- (a) By Ex. 55 at P. BB29 of the 1943 Forest Branch Report showing average stumpage prices as bid on Government timber sale contracts, fir is shown at \$2.76 with a range from \$1.25 to \$6.50; cedar is \$2.95 with a range from \$1.50 to \$6.50; hemlock is \$1.48 with a range from .85¢ to \$5.50; balsam is \$1.42 with a range from .85¢ to \$5.50; By adding to the average figures the royalty at \$1.25 for fir and cedar and .60¢ for hemlock and

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Statement showing:-  
 1. The weighted average value according to average  
 Government timber sale contracts, 1945 (see Forest  
 Report 1945)  
 2. The above value applied to the volume given by  
 technical studies  
 3. The above value applied to the volume estimated  
 by A. Smith  
 4. Forest Department Average 1945 Estimate

|              | Volume | Price | Value         |
|--------------|--------|-------|---------------|
| Balsam       | 1.45   | 1.50  | 2.175         |
| Hamlock      | 1.45   | 1.50  | 2.175         |
| Cedar        | 2.95   | 1.55  | 4.5725        |
| Fir          | 2.75   | 1.55  | 4.2625        |
| <b>TOTAL</b> |        |       | <b>13.285</b> |

  

|              | Volume  | Price | Value           |
|--------------|---------|-------|-----------------|
| Balsam       | 1.45    | 1.50  | 2.175           |
| Hamlock      | 1.45    | 1.50  | 2.175           |
| Cedar        | 2.95    | 1.55  | 4.5725          |
| Yellow Cedar | 4.15    | 1.15  | 4.7725          |
| Pine         | 2.05    | 1.05  | 2.1525          |
| Hamlock      | 18.2075 | 2.45  | 44.80825        |
| <b>TOTAL</b> |         |       | <b>107.1075</b> |

1. Application of Forest Department Average 1945  
 prices to volume estimated by A. Smith

|                    | Volume | Price | Value          |
|--------------------|--------|-------|----------------|
| Balsam and Hamlock | 2.90   | 1.50  | 4.35           |
| Cedar and Pine     | 22.245 | 1.10  | 24.4695        |
| <b>TOTAL</b>       |        |       | <b>28.8195</b> |

evidence in the one case  
 not accepted prior to the  
 other, there is no evidence  
 that the sale was completed  
 The Statute of Frauds  
 writing of the Agreement  
 of a verbal understanding

Block 195 was sold to  
 28th June, 1945, at an  
 average rate of \$2.00  
 this was an exceptional  
 claimant originally  
 basis of the quantity  
 otherwise - \$5,000 M. the  
 After reviewing the  
 claimant has felt that  
 with the evidence to  
 valuation \$250,000.00

BASES OF CLAIMANT'S  
 (a) By Ex. 55 at P.

Report showing  
 Government timber  
 \$2.75 with a  
 cedar is \$2.95  
 Hamlock is \$1.  
 Balsam is \$1.  
 By adding to  
 \$1.25 for the



Statement showing:-

1. The weighted stumpage values according to average Government timber sale contracts, 1943 (See Forest Report 1943)
2. The above values applied to the volume shown by Schultz cruise
3. The above values applied to the volume estimated by E. Smith

1. Forest Department Average 1943 Prices:

|         | <u>Stumpage</u> | <u>Royalty</u> | <u>Exportable Feature</u> | <u>Total</u> | <u>Total less 15% for cash</u> |
|---------|-----------------|----------------|---------------------------|--------------|--------------------------------|
| Fir     | \$ 2.76         | 1.22           | .75                       | 4.73         | 4.02                           |
| Cedar   | 2.95            | 1.22           | .75                       | 4.92         | 4.18                           |
| Hemlock | 1.48            | .60            | .75                       | 2.83         | 2.41                           |
| Balsam  | 1.42            | .60            | .75                       | 2.77         | 2.35                           |

2. Application of Forest Department Average 1943 prices to volume shown by Schultz cruise:

|                    | <u>Volume</u> | <u>Price</u> | <u>Value</u>        |
|--------------------|---------------|--------------|---------------------|
| Fir                | 21,971 M      | \$4.02       | 83,323.42           |
| Cedar              | 6,998 M       | 4.18         | 29,251.64           |
| Yellow Cedar       | 68 M          | 4.18         | 284.24              |
| Pine               | 624 M         | 4.02         | 2,508.48            |
| Hemlock            | 18,207 M      | 2.41         | 43,878.87           |
| Balsam             | 7,606 M       | 2.35         | 17,874.10           |
|                    | 55,474 M      |              |                     |
| <b>TOTAL VALUE</b> |               |              | <b>\$177,120.75</b> |

3. Application of Forest Department Average 1943 prices to volume estimated by E. Smith:

|                     | <u>Volume</u> | <u>Average Price</u> | <u>Value</u>        |
|---------------------|---------------|----------------------|---------------------|
| Fir, Cedar and Pine | 22,376 M      | \$4.10               | 91,741.60           |
| Hemlock and Balsam  | 8,618 M       | 2.38                 | 20,510.84           |
| <b>TOTAL</b>        | 30,994 M      |                      | <b>\$112,252.44</b> |



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balsam and a flat sum of 75¢ for the value of the exportable feature of Kagetsu's timber, and by subtracting 15% for cash, we get a figure of \$4.02 for fir, \$4.18 for cedar, \$2.41 for hemlock and \$2.35 for balsam. The original average figure is weighted by the three factors of royalty, exportability and cash to arrive at a comparable figure for Kagetsu's timber. When the weighted figures are applied to the volume by species shown of Block 195 by Schultz's cruise, we get a total of \$177,120.75.

total less  
5% for  
cash

4.02  
4.18  
2.41  
2.35

This figure in turn must be revised upward considerably for the following reasons:

1. It is a weighted figure of the average only and the evidence clearly establishes that this stand was well above average. Reference to the range of the prices shows that they went as high as \$6.50.
2. The evidence also showed that in the majority of instances there was no competition in these Government timber sales.
3. It was also shown that most of these timber sales involved small blocks, which, as the evidence both with regard to the timber sales and generally has shown, tends to depress the price of the stumpage paid.



4. The timber sales were set out further away from market and were often poor logging chances.

5. The log grades on these timber sales must be taken as the average and the logs from 195 were graded well above average as a comparison of Exhibit 23 with the average percentages of 1, 2 and 3 grades for the Vancouver District will show.

Brown at P. 569

Priddy at PP. 625 and 626

Shaw at PP. 902 and 924

- (c) Block 195 was a good logging show as appears in Eustace Smith's report (Ex. 93) and Schultz's evidence. I.e. the grades were easy, the road construction was easy because of the gravel content of the soil, labour was easily accessible and the stand was of uniform density.



- (b) The figures for comparable sales show that timber equal and even of inferior quality was fetching \$4.00 per M. and over.

Allison at P.367

Brown at P. 569

Pretty at PP. 625 and 626

Shaw at PP. 902 and 924

- (c) Block 195 was a good logging show as appears in Eustace Smith's report (Ex. 53) and Schultz's evidence. i.e. the grades were easy, the road construction was easy because of the gravel content of the soil, labour was easily accessible and the stand was of uniform density.

d)

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DEEP BAY LOGGING COMPANY LIMITED

Statement showing:-

1. The weighted stumpage values according to average Government timber sales contracts, 1943 (See Forest Report, 1943) ~~and~~ 1944
2. The above values applied to the volume shown by Schultz cruise plus scale to date with the same ~~has been~~ broken down as to species in accordance with the cut to
3. Value claimed for Cold Decked and Felled and Bucked timber

1. Forest Department Average 1943 Prices:

|         | Stumpage                | Royalty | Exportable Feature | Total                | Total less 15% for cash |
|---------|-------------------------|---------|--------------------|----------------------|-------------------------|
| Fir     | \$ 2.76 2 <sup>57</sup> | 1.22    | .75                | 4.73 4 <sup>54</sup> | 4.02 3 <sup>86</sup>    |
| Cedar   | 2.95                    | 1.22    | .75                | 4.92                 | 4.18 4 <sup>18</sup>    |
| Hemlock | 1.48 1 <sup>56</sup>    | .60     | .75                | 2.83 2 <sup>43</sup> | 2.41 2 <sup>50</sup>    |
| Balsam  | 1.42 1 <sup>64</sup>    | .60     | .75                | 2.77 2 <sup>49</sup> | 2.35 2 <sup>54</sup>    |

2. Application of Forest Department Average 1943 Prices to Volume shown by Schultz Cruise plus scale to date:

|             | Volume   | Price                  | Value       |           |
|-------------|----------|------------------------|-------------|-----------|
| Fir         | 13,500 M | \$4.02 3 <sup>86</sup> | 54,270.00   | 52 110    |
| Cedar       | 6,480 M  | 4.18                   | 27,086.40   | 27 086 40 |
| Hemlock     | 4,320 M  | 2.41 2 <sup>50</sup>   | 10,411.20   | 10,800    |
| Balsam      | 2,160 M  | 2.35 2 <sup>54</sup>   | 5,076.20    | 5 486 40  |
| Others      | 540 M    | 4.02                   | 2,170.80    | 2,170 80  |
| TOTAL VALUE | 27,000 M |                        | \$99,014.60 | 97 653 60 |

3. Value of Cold Decked and Felled and Bucked Timber as claimed:

|  |             |
|--|-------------|
| Cold Decked Timber - 700 M @ \$12.75 per M         | \$ 8,925.00 |
| Felled and Bucked Timber - 1,868 M @ \$10.75 per M | 20,081.00   |
| TOTAL  | \$29,006.00 |

27,000 M = \$ 97,500  
54,000 M = \$ 195,000

\$128,020 60

3. DEEP BAY LIM  
Stumpage

on March 13, 1944  
(Exhibit 45, Rep  
3 and 8, being  
October, 1944,  
Shurin  
We know he valu  
timber and on t  
felled and buck  
is based on the  
standing timber  
in view of the  
value of a rem  
in the case of  
Schultz cruise

Clai

(a) On the ba  
timber sa  
fir is sh  
cedar at  
hemlock a  
Balsam a  
By adding  
and cedar  
of 75¢ fo  
timber, a

\$3.8  
4.  
2.  
2.

(d) The va  
claim



3. DEEP BAY LIMITS:

Stumpage Value: These limits were sold to MacMillan on March 13, 1944 on the basis of Eustace Smith's valuation (Exhibit 45, Report on Liquidation, 15th March, 1945, Schedules 3 and 8, being letters dated 9th September, 1943 and 24th October, 1944, respectively, from Smith to P. S. Ross & Sons). ~~We knew~~ <sup>Whurin</sup> he valued all species at \$2.00 per M on the standing timber and on the felled and bucked in 1944 (having valued felled and bucked at \$3.00 per M. in 1943). This valuation is based on the assumption that there was 14,000 M feet of standing timber remaining on the limits and this is important in view of the evidence of many of the witnesses that a stumpage value of a remnant or a clean-up operation is not as high as in the case of a stand containing a large quantity as the Schultz cruise has proved the Deep Bay Limits to contain.

Claimant's basis of valuation:

- (a) On the basis of the average stumpage bid on Government timber sales in 1944: Exhibit 56, page DD 37,

fir is shown at \$2.57

cedar at 2.95

hemlock at 1.58

Balsam at 1.64.

By adding to the average figures royalty at \$1.22 for fir and cedar and 60¢ for hemlock and balsam and a further sum of 75¢ for the value of the exportable feature of this timber, and by subtracting 15% for cash, we get a figure of

\$3.86 for fir,

4.18 for cedar

2.50 for hemlock and

2.54 for balsam.

1736 Japanese Claims Commission re: Deep Bay Logging and  
E. Kageitsu. (1947-1948)



When these weighted figures are applied to the total figure of 53,952 M for the standing timber (contained in item 2(i) of the Claim as amended) in accordance with the proportion of species as shown by the cut to last fall, we get a value for the standing timber of approximately \$195,000.00.

(NOTE: the percentage of species shown by the cut to last fall - see page 4 of Schultz Report - is higher in cedar and fir, (the valuable species) <sup>than is</sup> ~~shown of~~ the standing timber cruise<sup>d</sup> by Schultz - see page 3 of Schultz report - so our figure of \$195,000.00 is susceptible of the appropriate reduction which I have not calculated).

For the same reasons as in the case of Block 195 (see page 8 and 8(a) of the argument) this figure of \$195,000.00 must be revised upward considerably. (Compare as in the case of Block 195 the <sup>✓ Vancouver District</sup> average log <sup>grades</sup> ~~with~~ those shown by the cut, Exhibit 22). We are claiming for the standing timber at \$4.00 per M. making necessary an upward revision to (\$4.00 x 53,952 M) \$215,808.00 (as set out in the claim, item 2(i)).

(b) The comparable sales as to which evidence is given on the pages of the transcript shown on page 9 of the argument are again applicable to Deep Bay.

(c) Deep Bay is also <sup>a</sup> good logging show. Although parts were not accessible to a railway operation,, they were easily accessible by truck and the trucking operation could be economically combined with the railway or (as was done) the old railway grade used for a great deal of the truck road.

(d) The value <sup>in</sup> ~~for~~ use of the railway has been alternatively claimed as a factor <sup>increasing</sup> ~~engrossing~~ the stumpage value (see



1736 Japanese Claims Commission re: Deep Bay Logging and  
E. Kagetsu. (1947-1948)

12.

(111) This assumption by the Custodian of the Timber Comptroller's item 2(v) of the claim) at \$28,260.00, computed at 50¢ per M for 56,000 M odd feed of timber. This is supported generally in the evidence and particularly by Allison on page 368 and Smith at page 807.

C. CUSTODIAN'S FAILURE TO SELL TO BEST ADVANTAGE:

1. Although the Custodian's advertising seems to have been quite generally known of, it was certainly not calculated to attract purchasers. In his advertisement for the sale of Block 195, contained in Exhibit 36, the first and most prominent condition is "1. This timber is offered for sale on the understanding that the purchaser will undertake to immediately commence continuous operations" and a similar condition was a part, though less prominently placed, of the advertisement for tenders for Deep Bay (contained in Exhibit 45, Ross Report on Liquidation dated March 15, 1945, Schedule 4).

The evidence shows that this condition had the effect both of deterring purchasers and therefore limiting their number, and also of depressing the price which a purchaser would pay (see Allison at 370, Brown at 571 and Schultz at 602).

The reason for the inclusion of this clause was obviously that the Custodian was under pressure from the Timber Comptroller, but as to that we say:

(1) The Timber Comptroller was quite able to enforce his regulations without the Custodian's assistance and the inclusion in the contracts of this onerous stipulation was completely unjustified.

(11) The Custodian's sole duty was to the Japanese and it was to get the best possible price he could for the assets in his control.



- (iii) This assumption by the Custodian of the Timber Comptroller's duties was more than mere passive negligence, it was a positive act of misfeasance.

2. The Custodian's duty being to obtain the best price for the timber limits, we submit he should not have sold when there was no necessity to. We do not suggest that the Custodian was bound to speculate with the assets under his control but as a prudent and willing, i.e. not a forced, vendor, he should have retained the timber limits longer than he did in view of the rising market which it was apparent to everyone would continue to rise for some time to come by reason of the great wartime demand for lumber. There is no depreciation on standing timber and no need therefore to get rid of it.

At the very least, we say, that the Custodian in selling at the prices he did, did not take the rising market into account as a consideration governing the price/<sup>he</sup> was asking at the time of sale. This we submit was his duty to do as a prudent vendor.

3. The Custodian failed to inform himself of the quantity of the timber on the limits he held for Kagetsu. In the case of Block 195 he sold as 31,000 M a block of timber which has been shown to contain 55,000 M, of which 50,000 M ~~was~~ cruised 18" D.B.H. and over. In the case of the Deep Bay limits he sold as "a remnant" of 14,000 M feet timber which has since proved to be in the amount of 54,000 M feet of 18" D.B.H. and over.

The Custodian can not say "I acted on advice that I thought competent". The claimant does not have to prove that the Custodian was negligent, - claimant need only prove that the Custodian failed to act as a prudent vendor and the result is conclusively shown that the Custodian did not so act.



IV EQUIPMENT:

This has been the subject of a recommendation by the claimant for settlement in the sum of \$8,000.00, the particulars and reasons for which appear in the basis for settlement submitted by Brewin. Our chief argument here is that the Custodian failed even to realize the amount at which this equipment was valued for the second time after a downward revision by the Custodian's valuator. We do not criticize the Custodian for selling piece-meal as he did -- with the best will in the world he might not have been able to do anything else because of the maintenance, etc., necessary in this case.

But we say that the Custodian simply was not in a position to act as a willing Vendor -- he was a forced Vendor -- and the fair market value of this equipment was not realized.

1736 Japanese Claims Commission re: Deep Bay Logging and  
S. Kogetsu (1947-1948)



RE: KAGETSU.

NOTES ON TRANSCRIPT OF EVIDENCE.

P. 74

KAGETSU IN CHIEF:

Discussion: We put no specific value on Christmas trees and reforestation value but it is an element of value.

Kagetsu paid taxes on this land up to 1942 (Transcript page 54).

P. 136

KAGETSU CROSS-EXAM:

Kagetsu claims \$4.00 per M for the Deep Bay timber, which he calculated at 27,000 M.

P. 138.

Kagetsu estimates 6 to 7 million in area north of Block 504.

P. 139-  
149

Commissioner directs breakdown of Item 2 of the Claim.

P. 165

Claimant directed to amend by breaking down Item 2.

P. 195

The \$4.00 per M claimed for Deep Bay timber does not take into account the fact that the timber was opened up by the Railway, that "opened up" factor was applied to the value of the Railway (28 million feet to be taken at 50¢ per M).

1736 Japanese Claims Commission re: Deep Bay Logging and  
C. Kagetsu



P. 196 &  
197

Kagetsu states cost of Railway to be recovered by a charge  
Commissioner requires proof of \$4.00 valuation and does  
not accept Kagetsu's evidence either as to value or quantity.

P. 220 & 224,  
P. 199

Pressure on Kagetsu to sell.  
Efficiency of Railway - 6 M feet per car - daily average  
12 cars.

P. 257

BYERS IN CHINA:

P. 204

Cost to Kagetsu of Block 195 by the year 1942:

|                                 |     |     |     |              |
|---------------------------------|-----|-----|-----|--------------|
| 1937 purchase                   | ... | ... | ... | \$ 75,000.00 |
| 5 years taxes etc. 5 x \$875.00 |     |     |     | 4,375.00     |
| 5 years interest at 6%          | ... | ... |     | 22,500.00    |

P. 275

Government timber sale contracts

\$101,875.00

(Kagetsu claimed \$121,515.00, on this basis there appears  
to be a discrepancy of \$20,000.00 odd.)

P. 295, L. 12

BYERS CROSS-BAY:

(Byers means the E. & N. did not raise their price as much.  
The price of E. & N. timber alienated by the E. & N. kept

P. 208

McPherson says custodian denies liability for deterioration  
between seizure and sale (refer to the felled and bucked)

P. 298

P. 211-212

The Commissioner accepts the E. & N. cruise of 504 to arrive  
Kagetsu on costs of felling and bucking, coal decking, loading,  
and transport to salt water and booming as follows:

|                       |     |     |         |
|-----------------------|-----|-----|---------|
| Felling and bucking   | ... | ... | \$ 1.25 |
| Yardage and Coal Deck | ... | ... | 2.50    |
| Loading               | ... | ... | .75     |
| Freight to salt water | ... | ... | 1.50    |
| Booming               | ... | ... | .30     |

\$ 6.30

1736 Japanese claims Commission re: Deep Bay logging and  
E. Kagetsu



Kagetsu states cost of Railway to be recovered by a charge  
of \$3.00 per M. purchased by McGarigal - cruised at 16 million,  
sold 9th April, 1944 for \$79,000.00 - \$4.93 per M.

P.220 & 224, Pressure on Kagetsu to sell.  
& 246

Charge of 50¢ per M. for use of road - 5 1/2 miles

P.257 BYERS IN CHIEF:

P.270 High percentage of No. 1 and 2 grades Fir at Deep Bay.  
the price.

P.275 Government timber sale contracts

P.272 ALLISON CROSS-EXAM:

The price paid for the McGarigal timber did not include the  
roads. Allison paid someone else for them (thus this was the

P.295, L.12 BYERS CROSS-EXAM:  
(Byers means the E. & N. did not raise their price as much.  
\$4.93 was concerned)  
The price of E. & N. timber alienated by the E. & N. kept  
pace with the higher prices)

P. 394 Accuracy of advertising by custodian. Allison had never

P.298 The Commissioner accepts the E. & N. cruise of 504 to arrive  
up in the Charlotte at this time, however the other evidence  
at stumpage.  
shows the knowledge of the sales was pretty general).

P.338 Admits Exhibit 24 - timber sale contracts - does not  
represent the true value of the timber. These contracts  
sometimes pay very high and often low because no competition.

1726 Japanese Claims Commission re: Deep Bay Logging and  
E. Kagetsu



P.367

ALLISON IN CHIEF:

Nanoose timber purchased by McGarigal - cruised at 16 million, sold 9th April, 1944 for \$79,000.00 - \$4.93 per M.

P.368

Charge of 50¢ per M. for use of road - 5½ miles

P.370

Vendors condition that Allison log immediately when depress the price.

P.410

Basis of McPherson's promise of 14 million feet Allison says \$3.00 per M.

P.372

ALLISON CROSS-EXAM:

P.411

The price paid for the McGarigal timber did not include the roads. Allison paid someone else for them (thus this was the equivalent of undeveloped timber in so far as the price of \$4.93 was concerned)

P. 394

Re adequacy of advertising by custodian. Allison had never seen or heard of the Japanese sales by the custodian (He was up in the Charlottes at this time, however the other evidence shows the knowledge of the sales was pretty general).

P.395

The E. & N. had no timber on sale in 1944.

1786 Japanese Claims Commission re: Deep Bay Logging and  
E. Tagetson (from 1944)



397

When Allison purchased from McGarigal he thought he was getting 16 million. He was prepared to pay \$4.93 per M.

P.406

Allison says \$4.00 per M. for Deep Bay timber on basis of 17 million feet available. If there were more he would increase the value.

P.410

Basis of McPherson's premise of 14 million feet Allison 1943. says \$3.00 per M.

P.411

He goes back to \$4.00 per M. after the old Railway right-of-way can be used.

DEEP BAY CROSS-EXAMINATION:

p. 583

Re: utilization - 98% of loggers were cutting down to 9-10" tops.

SCHULTZ IN CHIEF:

p. 594

Block 195 - Of 55,000 M there was 5,000 M between 12 and 18 D.B.H., i.e. 1/11th.

p. 602

Immediate operation requirement would:

(i) Better buyers;

(ii) Lower price.

1936 Japanese Claims Commission re: Deep Bay Logging and  
C. Tagetsu



BROWN IN CHIEF:

p. 569 Paid \$4.75 per M in June, 1945, on timber 15 miles north of Deep Bay (Royston). Analagous to Deep Bay in that there was a railway and he put in a truck road.

PRETTY IN CHIEF:

p. 625 MacMillan purchase from Alworth of their contract with

p. 571 Representative of American purchaser - the requirement that the limit be logged immediately would cut out American purchasers because at that time there was a ban on export

p. 576 Re utilization - he was cutting down to 12" D.B.H. in 1943.

for No. 2 Fir @ \$20.50, log price \$2.50  
plus 10% of \$3.50

p. 577 In 1944 non-exportable royalty paying timber sold for \$2.75. Exportable and royalty free would get \$3.75 or \$4.00.

p. 631 BROWN CROSS-EXAMINATION: very conservative.

p. 583 Re: utilization - 90% of loggers were cutting down to 9-10" tops.

PRETTY CROSS-EXAMINATION:

p. 635 Usual discount for cash 10%

SCHULTZ IN CHIEF:

p. 594 Block 195 - Of 55,000 M there was 5,000 M between 12 and 18  
p. 642 D.B.H., i.e. 1/11th.

p. 602 Immediate operation requirement would: additional haul.

(i) Deter buyers;

(ii) Lower price.

p. 645 Government timber sales are a good barometer.

1726 Japanese Claims Commission re: Deep Bay Logging and  
e. Lageton



p. 621D

SCHULTZ CROSS-EXAMINATION:

Cash discount of 10-25%.

PRETTY IN CHIEF:

p. 625

MacMillan purchase from Alworth of their contract with Dollars - \$2.50 basic price plus average of 18% of increase above \$11.00, 17.00 and 26.00 log price for 3, 2 and 1 grades respectively.

p. 675

p. 626

MacMillan-Alworth-Dollar contract works out at e.g.

for No. 2 Fir @ \$20.50, log price

\$2.50

plus 18% of \$3.50

.63  
3.13

p. 750  
and 751

plus increase over the Dollar price

1.00  
\$4.23 per M.

p. 631

EUSTACE SMITH's cruise very conservative.

p. 784  
and 785

PRETTY CROSS-EXAMINATION:

p. 635

Usual discount for cash 10%

p. 791

(His test as to what the average is for the area is cockeyed.)

p. 642

Deep Bay with 27,000 M. feet worth minimum of \$3.25 per M.

p. 643

Cowichan area - good to log despite additional haul.

p. 645

Government timber sales are a good barometer.

p. 646

Says Deep Bay was a success (as it was on the whole of his cruise and this is one of many instances where the opposite case is predicted on that basis).

1736 Japanese Claims Commission re Deep Bay Logging and  
C. Loggers' Co.



p. 649 Re: examination based on Dollar contract which was timber paying 50¢ Royalty, Deep Bay worth minimum of \$3.73

DISCUSSION:

p. 658 We said we are not claiming enhanced value because of adjacent timber -- the Koerner option.

p. 675 Norris objects to evidence of conversations by Custodian with Stewart. We say Stewart was not acting for Kagetsu.

FIELD IN CHIEF:

p. 750 and 751 Re: sale of Deep Bay -- tenders were opened 31st August, 1943 but nothing was done pending receipt of Smith's report.

WRAY CROSS-EXAMINATION:

p. 784 and 785 Dominion Income Tax for 1941 paid in December 1943 = taxable income \$,000.00. i.e. the Company was making a profit.

EUSTACE SMITH IN CHIEF:

p. 791 (His test as to what cut averages No. 2 grade is obviously cockeyed.)

p. 807 50¢ per M. for railway not "out of the way".

p. 825 The Dollar-Alworth-MacMillan timber was small to medium.

p. 826 Says Deep Bay was a remnant (so it was on the basis of his cruise and this is one of many instances showing Government's case is predicated on that assumption).

1736 Japanese claims Commission re. Deep Bay Logging and  
E. Kagetsu



p. 829 The E. & N. had no system until 8 years ago. They did no extensive cruising.

p. 830 "It was a very poor map...." (the E. & N. map)  
Confirms Kagetsu's evidence that the E. & N. were selling timber by the acre.

p. 854 EUSTACE SMITH CROSS-EXAMINATION:

Smith's cruise of Deep Bay

p. 862  
and 863

Admits he took E. & N. figures for Block 617 and indicates there was at least 7,298 M on that Block.

p. 926

SKELDING IN CHIEF:

p. 874

Re value of railway right-of-way -- If there were 30,000 M feet his opinion as to the value of the equipment etc. would be definitely different.

KEITH SHAW:

p. 896

Sale to Fletcher of Deep Bay timber March 9, 1945:

|              |      |
|--------------|------|
| fir and pine | 4.00 |
| cedar        | 3.00 |
| hemlock      | 2.00 |

p. 896  
and 897

MacMillan purchased Deep Bay 13th March, 1944 - no prior letter of acceptance from Custodian.

p. 902

Sale by MacMillan to Stultz of Block 195, 10th August, 1943

|                  |      |
|------------------|------|
| Fir and pine     | 4.50 |
| Cedar            | 3.25 |
| Hemlock & Balsam | 2.00 |

1736 Japanese claims Commission re Deep Bay Logging and E. Kagetsu's evidence



p. 918 Average \$3.30 on all species.

p. 921 SHAW agrees with 25% discount for cash but this is obviously silly in this instance because it means that MacMillan sold to Stultz for the cash equivalent of \$3.30 minus 25% of \$3.30 = 2.50, timber which cost MacMillan \$3.00 cash.

p. 921, and 923 Commissioner having read the Fletcher and Stultz contract with MacMillan outlines the unusually heavy burdens placed on the purchaser in these contract (which would make the prices paid lower than normal).

p. 926 re: date of Deep Bay contract - MacPherson admits MacMillan tender had not been accepted prior to the signing of the agreement of 13th March, 1944.

p. 934 SHAW:  
The truck road used the railway grade for  $1\frac{1}{2}$  miles more than shown on Exhibit 13.

p. 936 Re: utilization - they had been cutting 6" tops, i.e. 10" butts for 3 years.

p. 937 Smith's cruise of Block 195 a good one for what you would expect to log at that time (the cruise was made in 1923).

p. 924 The Alworth timber was not big timber like that on Block 195.

1736 Japanese claims Commission re Deep Bay logging and  
E. Laetson



MEMORANDUM

November 18th, 1948.

TO: The Honourable Mr. Justice Bird,  
Commissioner,  
Court House,  
Vancouver, B.C.

Re: Deep Bay Logging Company Limited and  
E. Kagetsu.

and re: Equipment items.

The proposed settlement which, it has been agreed, to recommend to the Commissioner by Counsel for the Government and Counsel for the Claimant, covers items nos. 3, 4, 5 and 8 of the Claim:

|   |  |
|---|--|
| Item 3 - Railway equipment, locomotives,<br>Rails, Coal, etc. | \$ 8,529.00                              |
| Item 4 - Gas Donkeys, etc.                                    | 9,925.00                                 |
| Item 5 - Wire rope, blocks, etc.                              | 8,487.27                                 |
| Item 8 - Boom chains  | 822.75                                   |
| making a total of.....  | <u>27,764.02</u><br><del>28,114.02</del> |

Recommended settlement is for the allowance of \$8,000.00 in respect to these items. Proposed recommendation is without prejudice to the Claimant's claim for \$14,000.00 for the unused value of the rails and railroad equipment as part of the going concern used in connection with the Deep Bay timber limits.

The basis upon which Counsel for the Claimant recommends the settlement is as follows: The claim is based so far as all items are concerned except the boom chains and the coal upon the appraisal made by the Universal Appraisal for the equipment at roughly \$61,000.00. These items were sold by the Custodian for an amount of roughly \$40,000.00. The Claimant admits that the amount shown in the original appraisal might be reasonably reduced by \$4500.00 in respect to a tractor (Item 4(a)) which had been through a fire unknown to the appraiser. A further \$1,000.00 might be reasonably taken off for one mile of rail which could not be sold owing to an agreement made by the Company. This would leave the market price contended for by the Claimant on the basis of the

1736 Japanese Claims Commission re Deep Bay Logging and  
E. Kagetsu



Universal Appraisal, of \$55,500.00. On the other hand, Government Counsel claimed that the \$40,000.00 which was realized represented the best price which could be secured for these items and so the fair market value. He contended that the Universal Appraisal had subsequently been reduced by the valuator himself, who had recommended acceptance of the offers which were in fact accepted. Evidence however was available that some of the items were sold to dealers in machinery and were resold by them to those who would use the equipment at an increase over the Custodian's selling price of an average of 17½% or the equivalent, on a basis of \$40,000.00 sales, of \$7,000. The Claimant contended that this figure, namely \$47,000.00, more nearly represented what a willing vendor would be willing to pay and should be the minimum allowed. Considerable confusion appeared as to the items for coal and booming chains and as to the actual amount of each of these items on the Claimant's property at the time of the evacuation. Bearing these various matters in mind and taking into account on the one side that the Claimant felt that the minimum to be allowed should represent prices that a willing vendor who could use the equipment (and not a dealer) was prepared to pay and on the other hand that the appraisal on which the Claimant was relying was substantially reduced by the appraiser himself and was shown to be too high in certain parts, Counsel for the Claimant recommended to the Claimant and the Claimant agreed to express his willingness to accept the figure of \$8,000.00 as a fair recommendation.

" F. A. Dravin "

1 counsel for the claimant

1736 Japanese Claims Commission re Deep Bay Logging and  
E. Kaetsu



November 3rd 1948

AMENDED CLAIM

IN THE MATTER of a Commission to Investigate Claims of  
Japanese-Canadians for Property Losses Pursuant to Order-  
in-Council P.C. 1810 - 1947 as amended by P.C. 3737 - 1947

TO: The Commissioner,  
Office of the Custodian,  
Royal Bank Building,  
Vancouver, B.C.

Pursuant to the notice issued on the 26th of  
September, 1947, I respectfully submit the following  
claim:

- (1) DEEP BAY LOGGING COMPANY LIMITED and  
SURNAME Kagetsu GIVEN NAME Eikichi
- (2) R.C.M.P. Registration No. 00014
- (3) Pre-Evacuation Address 335 Princess Avenue, Vancouver, B.C.  
2867 West 37th Avenue, Vancouver, B.C.
- (4) Present Address: c/o Mr. E. Kagetsu, 8 Mountview Avenue,  
Toronto, Ontario

(5) ITEMS

Item No.1

- |                       |  |
|-----------------------|--|
| (a) Legal Description | <u>Block 195, Cowichan Lake District</u> |
| (b) Type of Property  | <u>Timber Land</u>                       |
| (c) Value             | <u>\$275,000.00</u>                      |
| (d) Sold by Custodian | <u>\$ 93,000.00</u>                      |
| (e) Loss claimed      | <u>\$182,000.00</u>                      |

Item No.2

- (a) Parcels A, B, and G etc. on Custodian's analysis chart  
being

- 256 + 198
- (a) Blocks: 504, 566, 617, 274, 263, 234, 267, 276  
and Lot 88 all in the Newcastle District, Vancouver  
Island, and buildings and contents on Deep Bay Logging  
operation;  
Company's/foreshore rights, booming grounds, dumping  
landing, bridges, coal dock, road beds, etc. com-  
prising the subject matter of the sale to MacMillan  
Export Company Limited

1726 Japanese Claims Commission re Deep Bay Logging and  
E. Kagetsu



(a) Type of Property Flat

(b) Value \$142,781.00

(c) Sold by Custodian 40,000.00

(d) Loss claimed \$102,781.00

Item No. 3

Parcel C on the Custodian's analysis chart, Railway Equipment and Railroad, being

(a) Type of Property 1 sixty-ton Shay Locomotive

18 Logging Railway Cars

(a) Street Address 1 Flat Railway Car

(b) Legal Description 2 Push cars

(c) Type of Property 2 Speeders

(d) Interest in 8 miles of railroad

(e) Value 60 tons of coal

(b) Value \$37,029.00

(c) Sold by Custodian \$14,500.00

(d) Loss Claimed \$22,529.00

Item No. 4

Parcels D and F of the Custodian's analysis chart

(c) being by Custodian \$1,525.00

(a) Type of Property Clyde Gas Donkey

Empire Gas Donkey

Skagit Gas Donkey

Cletrac Tractor

Compressor & Accessories

(b) Value \$22,925.00

(c) Sold by Custodian \$13,000.00

(d) Loss Claimed \$ 9,925.00

Item No. 5

Part of Parcel H on the Custodian's analysis chart being

1,200 ft. wire rope 1/2 in. per ft.

Loss claimed

1726 Japanese claims Commission re Deep Bay Logging and  
C. Kageyama (1942)



(a) Type of property Wire rope  
blocks  
straps, clevises, etc.  
Falling and bucking tools  
Miscellaneous Tools  
 (b) Value \$15,591.80  
 (c) Sold by Custodian \$ 7,104.53  
 (d) Loss claimed \$8,487.27

Item No.6

(a) Street Address 5286 McKenzie St., Vancouver, B.C.  
 (b) Legal Description Lots 47 and 48, Block 29, District 1 2027  
 (c) Type of Property Residence  
 (d) Interest in Property Sole Owner  
 (e) Value \$5,500.00  
 (f) Sold by Custodian \$4,300.00  
 (g) Loss claimed \$1,200.00

Item No.7

(a) Description Pontiac Sedan 1942 Lic.No.65445  
 (b) Value \$1,396.00  
 (c) Sold by Custodian \$1,025.00  
 (d) Loss claimed \$371.00

Surrendered to R.C.M.P. on behalf of  
 Custodian, Hastings Park, Vancouver,  
 March 12th 1942

Item No.8

Lost by Custodian, being

A. Boom chains left on the premises at Deep Bay  
 (a) at blacksmith shop - 610  
 (b) at booming grounds - 30

Credited by Custodian 640  
317

Lost 323

Value 323 x \$2.25 \$726.75

B. 1,200 ft. wire rope @ 8¢ per ft. 96.00

Loss claimed \$822.75

1736 Japanese Claims Commission re Deep Bay Logging and  
 E. Kageyama



TOTAL CLAIM FOR real and personal property

\$328,116.02

DOMINION OF CANADA

TO WIT:

IN THE MATTER OF a Commission to investigate  
claims of Japanese Canadians for Property losses

AND IN THE MATTER OF the claim of Mr. Eikichi  
Kagetsu of the City of Toronto in the County  
of York, Retired Logger, and Deep Bay Logging  
Company Limited,

I, EIKICHI KAGETSU, of the City of Toronto, in the  
County of York,

DO SOLEMNLY DECLARE THAT:

The information set out in the claim form hereto  
is true and correct to the best of my knowledge,  
information and belief, and I make this solemn  
declaration conscientiously believing it to be  
true, and knowing that it is of the same force  
and effect as if made under oath, and by virtue  
of "The Canada Evidence Act".

DECLARED before me at the City  
of Vancouver, in the Province  
of British Columbia, this 3rd  
day of November, A.D. 1948.

*Eikichi Kagetsu*

*[Signature]*  
A Commissioner for taking Affidavits  
within British Columbia.

1736 Japanese Claims Commission re Deep Bay Logging and  
E. Kagetsu (P. 1948)



IN THE MATTER OF a Commission to Investigate Claims of Japanese-Canadians for Property Losses Pursuant to Order-in-Council P.C.1810-1947 as amended by P.C. 3737-1947

**CLAIM OF E. KAGETSU and  
DEEP BAY LOGGING COMPANY LTD.**

NORRIS & BALDWIN  
*Attorneys at Law*  
BARRISTERS AND SOLICITORS  
*Vancouver, B. C.*



re: DEEP BAY LOGGING COMPANY LTD.  
and E. KAGETSU.

Page 3.

BRIEF

BREAK DOWN

AND NOTES

TO

LOSS CLAIM

for 25,000.00.

Block 276 was purchased by Deep Bay Logging Company Limited

have found that the over run of the quantities of standing  
timber was above the estimated volume of standing timber

1726 Japanese Claims Commission re Deep Bay Logging and  
E. Kagetsu (1948-1951)



re: DEEP BAY LOGGING COMPANY LTD.  
and E. KAGETSU.

Page 2.

ITEM No. 1.

GROSS CLAIM 55,000 @ 5 = \$275,000.00

Scale to early Aug., 1948 55,301,705 6.6 M

Estimate not scaled 2,000,000

+ 57,301,705

Area cut Block 195 -- 720 ac. + poles

Assume average yield per findings  
of Schultz (56.18 M/ac. which is  
55 million for limit)

Production from 720 ac. =  
720 x 56.18 = 40,449,600

This leaves production on  
403..... 16,852,105  
+ poles

Area cut Block 403 - as shown  
on Map 557 ac.

Subt. 77 ac. for Gully = 480 ac.

Yield on this basis for Block 403 =

16,852,105 = 34.49 M/ac.  
480 plus poles 30  
approx. 34.79 M/ac.

Poles - 25635 lin. ft.  
@ 40 lin. ft. number pc. = 640  
say 200 bd. ft. per pc. = 128 M.b.f.  
for 480 ac. = 0.30 M/ac. approx.

TENTATIVE.

Block 276 was purchased by Deep Bay Logging Company Limited

1736 Japanese claims Commission re Deep Bay Logging and  
E. Kagetsu (over 1948)



re: DEEP BAY LOGGING COMPANY LTD.  
and E. KAGETSU.

Page 2.

ITEM No. 1

SUPPLEMENT.

Emphasis 1/2 million ft. Pine  
worth \$2.00/M more.

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Block 276 was purchased by Deep Bay Logging Company Limited



re: DEEP BAY LOGGING COMPANY LTD.  
and E. KAGETSU.

Page 2.

ITEM No. 2.

Value of Buildings \$ 4,000.00  
(Insured for \$10,000.00)

Value of Cold Decked Timber 8,925.00  
700 M @ \$12.75/M

Value of Felled & Bucked Timber 20,081.00  
1868 M @ \$10.75/M

Value of Standing Timber 108,000.00  
27,000 M @ \$4.00/M

Value of Farmland 1,775.00

GROSS CLAIMED..... \$142,781.00

NOT CLAIMED:

2349 Christmas Trees taken out 234.90  
@ 10¢ stumpage

not to mention hundreds of acres  
more of above

TOTAL ACREAGE OF LIMIT SOLD --- 6406 acres.

for \$10,000.00.

Block 276 was purchased by Deep Bay Logging Company Limited

1736 Japanese claims Commission re Deep Bay Logging and  
E. Kagetsu (over land)



re: DEEP BAY LOGGING COMPANY LTD.  
and E. KAGETSU.

Page 3.

- 2 -

BUILDINGS BEING USED:

|                   |               |
|-------------------|---------------|
| Family residences | 20            |
| Bunk Houses       | 10            |
| Others            | 8             |
| School Hall       | 1             |
| New Office        | 1             |
| <hr/>             |               |
| TOTAL.....        | 40 Buildings. |

40 Buildings --

Take \$75.00 for very conservative  
figure --- 40 x 75.00 \$3000.00

Replacement value per attached  
sheet --- \$2235.70

Current value take 1000.00

---

\$4000.00

---

ITEM No. 3.

|                            |             |   |
|----------------------------|-------------|---|
| Locomotive                 | \$ 5,000.00 | } per<br>Universal<br>Appraisal<br>Skelding |
| 19 Loggings Cars           | 3,675.00    |   |
| 2 Push Cars                | 200.00      |   |
| 2 Speeders                 | 4,650.00    |   |
| 8 Miles of Railroad        | 9,024.10    |   |
| plus 28,000 M @ 50¢        | 14,000.00   |   |
| plus Coal 60 tons @ \$8.00 | 480.00      |   |
| GROSS CLAIM                | \$37,029.10 |   |

Block 276 was purchased by Deep Bay Logging Company Limited

1736 Japanese claims Commission re Deep Bay Logging and  
E. Kagetsu (bent map)

26-17



re: DEEP BAY LOGGING COMPANY LTD.  
and E. KAGETSU.

- 3 -

For Interest Sake Only:

REPLACEMENT VALUE - 8 MILES OF RAILROAD:

Basis -- Evans Coleman Evans Relay Steel Valves  
per Bishop's Letter.

|   |                              |
|---|------------------------------|
| Rails - 660 tons @ \$30.00                      | \$19,800.00                  |
| Switches 1 ton represented by<br>10 @ \$64.50   | 645.00                       |
| Angle Bars - 37 tons or 3520 pairs<br>@ 95#     | 3,345.00                     |
| Spikes - 23 tons or 47,533# @ \$5.00<br>per CWT | 2,376.00                     |
| Bolts - 6 tons or 11,735# @ \$9.25<br>per CWT   | 1,085.00                     |
| <hr/>   | <hr/>                        |
| TOTAL WEIGHT 727 tons                           | TOTAL REPLACE-<br>MENT VALUE |
|   | <u>\$27,251.00</u>           |

Actual weight lifted 847 tons

∴ extra lifted = 120 tons

Value @ \$8.00 ton 960.00

\$28,211.00

Ties, Bridges, grading excluded.

OR

847 t. @ \$12.00 = \$10,164.00

847 t. @ \$30.00 = \$25,410.00

Fair Rails 559 t.  
Poor Rails 211 t.  
Scrap Rails 77 t.  
847 t.

Block 276 was purchased by Deep Bay Logging Company Limited

1736 Japanese claims Commission re Deep Bay Logging and  
E. Kagetsu (1947-1948)

28-17



re: DEEP BAY LOGGING COMPANY LTD.  
and E. KAGETSU.

- 4 -

ITEM No. 4.

|                   |             |           |
|-------------------|-------------|-----------|
| Clyde Gas Donkey  | \$ 3,700.00 | per       |
| Empire Gas Donkey | 2,700.00    | Universal |
| Skagit Gas Donkey | 8,525.00    | Appraisal |
| Cletrac Tractor   | 7,500.00    | Skelding  |
| Compressor        | 500.00      |           |
| GROSS CLAIM.....  | \$22,925.00 |           |

ITEM No. 5.

|                         |             |           |
|-------------------------|-------------|-----------|
| Wire Rope               | \$ 9,004.85 | per       |
| Blocks                  | 3,565.30    | Universal |
| Straps, Clevices, etc.  | 1,336.15    | Appraisal |
| Falling & Bucking tools | 692.10      | Skelding  |
| Miscellaneous tools     | 993.40      |           |
| GROSS CLAIM.....        | \$15,591.80 |           |

for \$8,000.00.

Block 276 was purchased by Deep Bay Logging Company Limited

1736 Japanese claims Commission re Deep Bay Logging and  
E. Kagetsu (bent over)



re: DEEP BAY LOGGING COMPANY LTD.  
and E. KAGETSU.

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ITEM No. 6.

McKenzie House

GROSS CLAIM.....\$5500.00

ITEM No. 7.

Pontiac

GROSS CLAIM.....\$1,396.00

Sold for \$1025.00  
1,025.00  
\$ 371.00

ITEM No. 8 A.

Boom Chains

640

317

323 Chains @ 2.25

\$ 726.75

GROSS CLAIM.....\$726.75

for \$8,000.00.

Block 276 was purchased by Deep Bay Logging Company Limited

1726 Japanese Claims Commission re: Deep Bay Logging and  
E. Kagetsu (1917-1940)

28-17



re: DEEP BAY LOGGING COMPANY LTD.  
and E. KAGETSU.

Page 2.

- 6 -

ITEM No. 8 B.

1200 ft. Wire Rope @ 8¢/ft. = \$96.00

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for \$8,000.00.

Block 276 was purchased by Deep Bay Logging Company Limited

1736 Japanese Claims Commission re: Deep Bay Logging and  
E. Kagetsu (1917-1940)

28-17



re: DEEP BAY LOGGING COMPANY LTD.  
and E. KAGETSU.

Minutes of Evidence

My Biography.

On June 10, 1906, I arrived in Vancouver on the S. S. Empress of China.

On Nov. 12, 1909, I took out my Naturalization Papers at the County Court - 7380 series #E.

On May 11, 1917, my cousin, Tsunekichi Yamazaki of the 50th Battalion was killed at Vimy.

July 1936, I was invited by the Canadian government to attend the ceremony of the unveiling of the Vimy Memorial to which I attended.

July 1936, I received an invitation to Buckingham Palace by King Edward VII which

I accepted with honour.

My son graduated from the Forestry department of the University of B.C. in 1942, so I planned an office at Sunny Bay for my son. This construction was being completed when the Custodians took over.

Block 276 was purchased (by myself) for the Deep Bay Logging Company Limited from the E. & N. Railway in September, 1940, for \$8,000.00.

Block 276 was purchased by Deep Bay Logging Company Limited

1736 Japanese Claims Commission re Deep Bay Logging and E. Kagetsu (1947-1948)

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re: DEEP BAY LOGGING COMPANY LTD.  
and E. KAGETSU.

Minutes of Evidence

BUSINESS.

In September 1908, I started in the Logging Business.

In March 1916, I started to export timber as well.

In April 1942, I had to make a detailed inventory for the Custodian. My lists made up 17 sheets of letter paper. I handed this inventory of the Deep Bay Logging Company to Mr. J. W. McPherson of the Custodian's Office in the Royal Bank Bldg. to which he exclaimed that if there is so much, we'll send men up to check up.

On April 17, 1942, Mr. Wray and Mr. Murray came to Fanny Bay with the inventory I handed Mr. McPherson to check the lists of the Deep Bay Logging Co. At this time, they commented that everything was systematically done. At that time, I told Mr. Wray that there are also the Skagit Gas Yarder and attachments, and Cletractor with Bull Dozer and Double Drum and attachments.

From 1923 to the time I handed Mr. McPherson the inventory, I had been purchasing deeper into the forest from the E. & N. Railway. For this reason, from Block 504 for over 3 miles, I looked over the timberlands and discovered endless amounts of timber throughout. Therefore, I was confident that there was a 25 years' future in these properties.

My son graduated from the Forestry department of the University of B.C. in 1942, so I planned an office at Fanny Bay for my son. This construction was being completed when the Custodian took over.

Block 125, Lake Cowichan District: I purchased this in Nov. 1937, for \$17,500.00 from Gerald A. Tisdal, through his agent, Mr. Whitson, of Duncan. In 1942 I had not logged this area and by that time the cost, when taxes and interest had been added, was \$121,515.00.

Block 224 of the Deep Bay operation was purchased in July, 1939 by myself from the E. & N. Railway for \$16,000.00.

Block 200 was purchased (by myself) for the Deep Bay Logging Company Limited from the E. & N. Railway in September, 1940, for \$8,000.00.

Block 276 was purchased by Deep Bay Logging Company Limited

1736 Japanese claims Commission re Deep Bay Logging and E. Kagetsu (born 1908)

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re: DEEP BAY LOGGING COMPANY LTD.  
and E. KAGETSU.

Minutes of Evidence

Kagetsu will say:

1. I am a claimant herein in my personal capacity and also as majority shareholder of the Deep Bay Logging Company Limited. I am now living in Toronto, Ontario, at Mountview Avenue, No. 8. I am a Canadian citizen, having taken out my naturalization papers on November 12th, 1909, in Vancouver.

2. Experience in the logging business: I started in the logging business in British Columbia in September of 1908. In March 1916 I started to export timber as well. In 1923 I began logging operations at Deep Bay and from that time until the date when I was forced to leave the Coast, I had been steadily purchasing timber blocks on the E. & N. Railway in the further development of the Deep Bay operation, where my railway development in 1942 extended into Block 504 from Fanny Bay. I also operated a logging camp at Cowichan Lake in the late '30's.

3. History of timber limits comprising the claim:  
Block 195, Lake Cowichan District: I purchased this in May, 1937, for \$75,000.00 from Gerald A. Tisdal, through his agent, Mr. Whittome, of Duncan. In 1942 I had not logged this area and by that time the cost, when taxes and interest had been added, was \$121,515.00.

Block 504 of the Deep Bay operation was purchased in July, 1939 by myself from the E. & N. Railway for \$19,000.00.

Block 566 was purchased (by myself) for the Deep Bay Logging Company Limited from the E. & N. Railway in September, 1940, for \$8,000.00.

Block 276 was purchased by Deep Bay Logging Company Limited

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1736 Japanese claims Commission re Deep Bay Logging and  
E. Kagetsu (born 1888)

Left Deep Bay Apr 42  
went into logging

Experience  
as claimed

Sold  
June  
1943

654  
Block 195  
Kowichan  
to the West



from the E. & N. in February, 1932, for \$65,662.00.

Block 617 was purchased by Deep Bay Logging Company Limited on the 17th November, 1941, from the E. & N. Railway for \$8,000.00.

Besides these we owned the following: Blocks 274, 263, 234, 267 and Lot 88, which were purchased from the E. & N. from time to time.

4. Basis of purchase, cruises and estimates:

Block 195: I had a cruise report of P. F. Sheehan made about 1923 I believe, showing over 50 million feet, board measure, on this block. I personally very closely examined and surveyed this block and found confirmation of Sheehan's report and a great deal of number 1 grade fir timber. In my 35 years in the logging business I have had a lot of experience in cruising timber limits and estimating the volume of timber on them. I felt at the time that even in spite of the low prices then prevailing for logs that I had secured a very good buy.

Blocks 504, 566, 276 and 617 on the Deep Bay operation were cruised by the E. & N. prior to their sale to me and to the Deep Bay Logging Co. Ltd. I cruised these Blocks very carefully myself and from these examinations and from former experience in the purchase of timber blocks from the E. & N. on the Deep Bay operations was convinced that the cut from these blocks would be greatly in excess of the E. & N. cruises and in most of the areas up to 100% in excess because of:

- (a) these cruises do not take into account the fallen timber, of which there was considerable and of which I had previously found a very high percentage to be recoverable, and
- (b) because on these E. & N. cruises in the Deep Bay area I have found that the over run of the quantities of standing timber cut above the estimated volume of standing timber

1936 Japanese claims Commission re Deep Bay Logging and  
E. Kagetsu (born 1900)



is high and in some cases up to 30%.

5. At the time the Custodian took over, I estimate there was the following recoverable timber on these limits:

Block 195: 54 to 55 million feet and on the Deep Bay operation something in excess of 26 million feet. I estimate that the fair market value of the stumpage on the dates of sale at \$5.00 a thousand for the Block 195 timber and \$4.00 a thousand for the Deep Bay timber.

6. The equipment on the Deep Bay operation was in better than average condition. I think we ran an efficient show and it would not have paid to maintain or try to maintain equipment which was in poor condition. I complied very carefully with all the safety regulations required by the Workmen's Compensation Board and other authorities.

7. The Railroad, including the ties and roadbed and bridges was in good shape throughout from the logging areas down to salt water at Fanny Bay. It had to be in good shape because it was inspected annually by Mr. Swanson. Two bridges were new. I had also built a new railway extension reaching up to Block 617. It was very costly but in view of the timber in that block I was confident of lucrative returns.

*Inclusive operation*

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1736 Japanese Claims Commission re Deep Bay Logging and  
E. Kagetsu (1945-1946)

26-17



8. The camp consisted of 23 residences, 10 bunk houses, 2 kitchen buildings, 1 community hall, 1 office, a blacksmith shop, a power house, a work shop, and a double storage garage, not to mention other smaller structures. These were all strongly and durably constructed giving them almost indefinite life. They were all built on cedar sills except the bunk houses, where were on cedar skids so as to be portable. We had adequate living accommodation for 75 employees together with 100 women and children. I wish to emphasize that I was concerned as much in the continued welfare of the community, as I was in financial gains. I had therefore built a community hall which was used for entertainment of all sorts such as showing moving pictures. This hall was also used as a kindergarten. Further, I had cleared a baseball field for the boys and had in fact gone so far as to issue them uniforms. *1 team*

9. Much of the land around the camp was cleared. I had planted fruit trees which were yielding well. Many acres were under cultivation by the men to raise their own vegetables, a practice which I had encouraged.

I had oyster beds too, knowing well that it contributed to the community. *100 box seed*

*Not alone*  
I have had the blocks of land comprising the Deep Bay operation surveyed by an Agronomist, Mr. Clement.

*over all picture*  
10. At Fanny Bay I had a booming ground, dumping pier and a foreshore lease where I had planted seeds, oyster seeds. Two men were making a living out of this oyster bed at the time I left the coast, and all these were included in the sale to the MacMillan Export Company.

1726 Japanese Claims Commission re Deep Bay Logging and  
E. Kagetsu (1911-1912)

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11. I have always been on very friendly terms with the officials of the E. & N. Railway, and in particular with Mr. L. C. Lytton, the Assistant Land Agent at Victoria. Since November, 1941, I was negotiating for the purchase of the Block of timber owned by the E. & N. to the west of Block 504 and it was understood that I would have the first chance to purchase this Block in accordance with the policy of the E. & N., which I had experienced in the development from Fanny Bay westward of the Deep Bay operation. This block contained upwards of 60 million feet and, together with still more timber to the west, I looked forward to 25 years future operations at Fanny Bay. With this in mind I was in process of constructing an office building at Fanny Bay where my son, who is a graduate in Forestry of U.B.C., was to take over the future operations of the Company. In logging this next purchase, the facilities of the entire system, including the equipment, the road bed and the railway, bridges, etc., booming ground at Fanny Bay and all the buildings were, of course, to be utilized.

*much  
attracted  
more  
valuable*

*450  
acres  
allotted  
for*

*Community there for  
which responsible*

12. On the more arable lands, especially near the camp, I had plans of farming rather extensively. Among the neighboring land owners were some very prosperous farmers with large farms.

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1726 Japanese Claims Commission re Deep Bay Logging and  
E. Kagetsu, (son of)

26-17



13. I also was very conscious of the restocking of the cut-over lands. At the time of my leaving there were areas where I had operated about 20 years before. It was very apparent that a new crop of timber was growing back in; I had therefore, every reason to believe that at Fanny Bay there were resources not only for my own use but also for the next generation as well. Thus I had kept up tax payments even on cut-over lands. In this connection I sincerely regretted learning about some 2500 Christmas trees being cut and sold off my old limits. This appeared to me to be such poor forest practice.

More by  
Dept  
had plant  
some  
growth

Stewart never had a  
power of attorney.

Kagetsu that the difference  
Japanese would blow over in a  
short time & he would be back.

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1736 Japanese Claims Commission re Deep Bay Logging and  
E. Kagetsu (1900-1901)



MINUTES OF EVIDENCE OF WILLIAM BYERS:

Mr. Byers will say:

1. I live at 4050 West 12th Avenue, Vancouver, B.C.
2. I am a consulting forester and timber broker and a registered professional forester in the Province of British Columbia and a member of the Canadian Society of Forest Engineers and a member of the Empire Forestry Association. I also taught Forestry at the University of British Columbia from 1933 to 1946 inclusive.
3. I was a member of the B.C. Forest Service for 29 years in the capacity of Assistant Forest Ranger, Forest Ranger, Forest Supervisor and Supervisor of Scalers. I spent 7 years on Vancouver Island in my official capacity, 5 of which were spent on the East Coast of Vancouver Island as Forest Ranger and Forest Supervisor.
4. As Forest Ranger my duties included timber cruising, logging inspection, Forest protection, land classification, log scaling, etc.
5. My experience on Vancouver Island convinced me that the timber stands on the East Coast of Vancouver island are equal and in many cases superior to timber stands in other parts of the Province, due largely to:
  - (i) the predominance of Douglas Fir;
  - (ii) the favourable topography on which to conduct logging operations;
  - (iii) the accessibility to markets;
  - (iv) sheltered booming facilities; and
  - (v) comparatively safe towing conditions - unfavourable towing conditions can cause severe losses.

1736 Japanese claims Commission re: Deep Bay Logging and  
E. Kogetsu

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10. With reference to Deep Bay Logging operation, I personally extracted from the records of the Forest Service the figures on the quantities of timber cut, by species and grades, on the operation of the Deep Bay Logging Company which was subsequently acquired by the Alpine Timber and logged by the Tsable River Logging Company. These figures are available on the record introduced to the Commission. With reference to Block 195, Cowichan Lake District, the figures on the quantities cut in this area were also obtained from the Forest Service records by species and grades. I have not personally visited the area covered by Block 195 but I am very familiar with the timber stands in this part of Vancouver Island and know from experience gained as an Officer of the Forest Service that most of this timber is of superior quality, which is borne out by the analysis<sup>made</sup> of the timber cut from this area.

11. In the course of my duties as Supervisor of Scalpers in the B.C. Forest Service, it was necessary for me to keep in close touch with log prices for departmental purposes and I am therefore acquainted with the general increase in log prices, which began to show an improvement in 1936, from which time there has been a general rise to the present time when log prices are at their highest in the history of logging in British Columbia.

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1936 Japanese Claims Commission re: Deep Bay Logging and  
E. Kageyama (Lumberman)



6. I am personally familiar with the Lake Cowichan District and the logging conditions there, and know that the timber stands in that area are of a superior quality.

7. I am also familiar with the operations of the Deep Bay Logging Company at Fanny Bay and have had supervision of these operations for several years in my official capacity during my residence on Vancouver Island. In my opinion, the timber in this vicinity is above average quality and is very accessible and comparatively easy logging.

8. As Forest Ranger and Forest Supervisor it was part of my duties to assess the efficiency of the logging operations being conducted at Vancouver Island with a view to prevention of hazardous conditions created by logging operations, forest protection and undue waste of timber, and I always considered the Deep Bay operation a highly efficient one.

9. E. & N. Policy re sale of timber blocks:

From my observations and experience on Vancouver Island, the general policy of the E. & N. Railway Company appeared to be selling a certain block of timber to a logging operator and as the timber on the first block was being liquidated, further sales of adjacent areas were made, according to water sheds and topographical conditions. The progress of many operators such as the Hillcrest Lumber Company, Scottish Palmer, Continental Timber Company, McDonald & Murphy, and Deep Bay Logging Company developed in this manner.

It would be logical to assume that the Deep Bay operation would continue to develop as it had in the past further west into the E. & N. Belt. which was adjacent

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1736 Japanese claims Commission re: Deep Bay Logging and  
E. Kageyama (Lumberman)



MINUTES OF EVIDENCE OF JACK ALLISON

Re: DEEP BAY LOGGING COMPANY LIMITED and E. KAGETSU.

1. I am President of Allison Logging Company and live at <sup>1485 Davie</sup> 1748 Duchess Street, ~~West~~ Vancouver, B.C.

2. I have been engaged in the logging business for 18 years now and for the past ten years have personally managed the operation of logging camps, mostly on Vancouver Island.

3. The nature of the timber on the East coast of Vancouver Island is in the main very excellent.

4. The chances in this area are also better than average and the market is more readily accessible from it than from most of the other areas in British Columbia now being logged.

5. The booming grounds in this area are more sheltered than others and the tow to Vancouver is less dangerous and the likelihood of loss of logs from booms in tow correspondingly less.

6. I bought a boom of logs in Fanny Bay, Vancouver Island, from MacMillan's this year which I found to be of excellent grade and quality.

7. On the 29th February, 1944, I bought from Charles McGarrigle a block of E. & N. land, cruised at 16,000,000 feet for \$79,000.00, i.e. for \$4.93 per M. feet for stumpage. This block was at Nanoose, about 30 miles south of the Deep Bay operation.

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1786 Japanese claims Commission re: Deep Bay Logging and E. Kagetsu (1942-1948)



Jack Allison.

Page 2.

8. The timber in the Deep Bay area is very similar to that in the Nanoose area.

9. In selling timber lands not fully logged and into which truck roads have been built, I would put a value on the truck roads to the purchaser of 50¢ per thousand feet of timber remaining and would also take into account the amount of timber adjacent to the lands sold in estimating the value to a purchaser of a truck road already built on the land sold.

10. I have also conducted logging operations with railway equipment and would place the same value (50¢ per thousand feet of timber) on a railway for purposes of getting the logs out.

11. The upward trend in stumpage prices became very marked in 1943 and I considered the price paid to McGarrigle for the timber block I have mentioned to be a very reasonable one.

12. As the market was definitely swinging up, I would consider that any factor which prevented the purchaser from holding his timber to sell at some more distant date would decrease the price he would be willing to pay and by the same token would discourage purchasers and reduce their potential number.

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1736 Japanese Claims Commission re: Deep Bay Logging and  
E. Kageyama (1942-1948)

26-17



CLEMENT

Table River. There are between eighty and one hundred acres in this place.  
The area immediately surrounding the former Camp comprises about thirty five acres which were more or less under cultivation. Fruit trees and berry bushes are in evidence. This land is a sandy loam underlain with sand. November 1st 1948.  
ground water. We place a value of twenty five dollars per acre on this place.

Thirty-five acres at \$25.00 - \$875.00.

The remainder of this tract is variable in nature from Mr. E. Kagetsu, nature is well decomposed loam soils. Showing 313 Bank of Nova Scotia Bldg., place a value of \$10.00 per acre 602 W. Hastings St., Vancouver, B.C. five acres at \$10.00 - \$50.00.

Dear Sir: It appears therefore that the value of such land as is fit for agricultural purposes is as follows:

In accordance with your instructions we have examined certain lands in the vicinity of Union Bay, Vancouver Island. The lands are those described on the map of the Deep Bay Logging operation which you supplied to us. Physical examination of the property shows us enough similarity to warrant that the area we examined is the area described on the map. Entrance is gained over a good gravel road which intersects the Island Highway, close to a mail box labelled "Tsable River Logging Co."

Should you require it we are able to establish the location of the areas to which our report refers by reference to a survey post located a short distance west of the gravel pit shown on the map. Otherwise our references as to area and location are of an approximate nature. Measurements are taken along the main truck road running generally east and west through the property.

(1) With reference to the land east of the lower water tank and south of the road. There is an area here comprising about seventy acres on which we place a value of \$5.00 per acre. The soil is of a coarse granular nature, gravelled in some places and well decomposed in others. There is now a good stand of second growth brush and some leafy trees. Ground water is obtainable in places at depths of from six inches to two feet. It is bounded on the east by a rocky hillside well covered with small trees. Land could be cleared up for use as sheep grazing and in places for berries.

Seventy acres at \$5.00 - \$350.00.

(2) With reference to a tract North of the gravel pit and approximately five hundred feet west, extending west to the present B.C. Power Commission High Tension Line and North to the

reach most of the western portion would tap the E. & N. Territory lying between Block 231 and Block 232.  
The route suggested is to leave the C.N.R. track at a point near the old Scottish Palmer camp- follow the old grade South for about one-third of a mile, and then cut South to the main hill along the South boundary of Block 47. From this point the route turns west along the logged sidehill, climbing at from a 10% to 12% grade to the edge of the old logging in the South-west corner of Blk. 231. This elevation- about 1,600 feet - is above the Bluffy slopes to Bear Creek, and the road can continue on a very slight grade to

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1726 Japanese Claims Commission re Deep Bay Logging and  
E. Kagetsu (1947-1948)



1726 Japanese Claims Commission re Deep Bay Logging and  
e. Kagaetsu. (1947-1948)

able River. There are between eighty and one hundred acres in this piece. The area immediately surrounding the former Camp comprises about thirty five acres which were more or less under cultivation. Fruit trees and berry bushes are in evidence. This land is a sandy loam underlain with sand. There is an adequate supply of ground water. We place a value of twenty five dollars per acre on this piece.

Thirty-five acres at \$25.00 - \$875.00.

The remainder of this tract is variable in nature from a coarse granular nature to well decomposed loam soil. Clearing varies from light to heavy. We place a value of \$10.00 per acre on the area.

Fifty-five acres at \$10.00 - \$550.00.

It appears therefore that the value of such land as is fit for agricultural purposes amounts to:

|                        |                   |
|------------------------|-------------------|
| 70 acres of rough      | \$350.00          |
| 35 acres of cultivated | 875.00            |
| 55 acres of arable     | <u>550.00</u>     |
|                        | <u>\$1,775.00</u> |

All of the land easterly of a point west of the lower water tank is of a rocky precipitous nature. We do not consider that it has any value for agricultural purposes.

In response to your question about the fruit trees: there are at least fifteen still in evidence. They are generally of good size and now producing. They show every sign of neglect and require considerable pruning. There are a number of raspberry patches with fair stands of this years canes showing.

Camp buildings have nearly all fallen down. There are three logging donkeys standing on their skids.

We certify that the examination of this property was carried out by an officer of this Company and that no statement is in any way influenced by any consideration or promise of consideration from anyone.

Verification of distance, areas and directions may be obtained from H.F. Winter, Survey Engineer of the B.C. Telephone Co. who accompanied our Officer on this examination.

All of which is respectfully submitted.

Yours truly,

CLEMENT CONSULTING SERVICES LTD.

J.W.Clement, Manager

JWC/w

the route follows the old Scottish Palmer camp- follow the old grade south for one-third of a mile, and then cut South to the main hill along the South boundary of Block 47. From this point the route turns west along the logged sidehill, climbing at from a 10% to 12% grade to the edge of the old logging in the South-west corner of Blk. 231. This elevation- about 1,600 feet - is above the Bluffy slopes to Bear Creek, and the road can continue on a very slight grade to



1726 Japanese Claims Commission re: Deep Bay Logging and  
C. Kagetsu. (1947-1948)

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CRUISERS REPORT  
- O F -

BLOCK 195  
COWICHAN LAKE DISTRICT  
VANCOUVER ISLAND  
BRITISH COLUMBIA

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000'

000'

By:

P. F. Sheehan  
37 Imperial Bldg.,  
Vancouver, B.C.

M.

reach most of the Western portion. would tap the E. & N. Territory lying between Block 231 and Blk. 195.

The route suggested is to leave the C.N.R. track at a point near the old Scottish Palmer camp- follow the old grade South for about one-third of a mile, and then cut South to the main hill along the South boundary of Block 47. From this point the route turns west along the logged sidehill, climbing at from a 10% to 12% grade to the edge of the old logging in the South-west corner of Blk. 231. This elevation- about 1,600 feet - is above the Bluffy slopes to Bear Creek, and the road can continue on a very slight grade to



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C O W I C H A N   L A K E   D I S T R I C T  
V A N C O U V E R   I S L A N D  
B R I T I S H   C O L U M B I A

Q U A N T I T Y  
Board Measure

| Area  | Fir<br>20" over | Fir<br>20" under | Hemlock<br>14" over | Larch<br>14" over | White Pine<br>14" over | Red Cedar<br>16" over |
|-------|-----------------|------------------|---------------------|-------------------|------------------------|-----------------------|
| Lot A | 6,810,000'      | 3,280,000'       | 5,370,000'          | 520,000'          | 150,000'               | 980,000'              |
| Lot B | 12,220,000'     |                  | 1,790,000'          | 800,000'          | 20,000'                | 1,560,000'            |
| Lot C | 7,640,000'      | 890,000'         | 1,280,000'          | 1,490,000'        | 230,000'               | 4,690,000'            |
| TOTAL | 26,670,000'     | 4,170,000'       | 8,440,000'          | 2,810,000'        | 400,000'               | 7,230,000'            |

| <u>Acres</u>      |                         | <u>Total</u>     |
|-------------------|-------------------------|------------------|
| Lot A - 386 acres | Fir - 20" and over      | 26,670,000'      |
| Lot B - 316 "     | Fir - 20" and under     | 4,170,000'       |
| Lot C - 277 "     | Hemlock 14" and over    | 8,440,000'       |
|                   | Larch 14" and over      | 2,810,000'       |
|                   | White Pine 14" and over | 400,000'         |
|                   | Red Cedar 16" and over  | 7,230,000'       |
| 971 acres         |                         |                  |
|                   | Grand Total             | 49,720,000' B.M. |

In addition Cedar Poles   Lot A - 830  
    Lot B - 670  
    Lot C - 910  
    2,410

reach most of the E. & N. Territory lying between Block 231 and Block 232.

The route suggested is to leave the C.N.R. track at a point near the old Scottish Palmer camp- follow the old grade South for about one-third of a mile, and then cut South to the main hill along the South boundary of Block 47. From this point the route turns west along the logged sidehill, climbing at from a 10% to 12% grade to the edge of the old logging in the South-west corner of Blk. 231. This elevation- about 1,600 feet - is above the Bluffy slopes to Bear Creek, and the road can continue on a very slight grade to

1726 Japanese Claims Commission re: Deep Bay Logging and  
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26-17



COPY

A 2

Ref:  
Annex 2.

Ex 53

*12 estimate as  
made about 1900  
milling in conjunction  
with logging*

ONAL TIMBER NOT SHOWN IN  
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the land falls to  
Fir and approx  
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South boundary of Block 47. From this point the route turns west along the logged sidehill, climbing at from a 10% to 12% grade to the edge of the old logging in the South-west corner of Blk. 231. This elevation- about 1,600 feet - is above the Bluffy slopes to Bear Creek, and the road can continue on a very slight grade to

26-17



COPY

A 2

Ref:  
Annex 2,  
Personal Claim

Ex 53

ADDITIONAL TIMBER NOT SHOWN IN THE FOREGOING REPORT

On all the subdivisions there is more or less down timber but the amount is comparatively small except of Lots A & B. where the land falls to the Creek bottoms. The total is roughly 5,000,000 Fir and approximately 1,000,000 Cedar. My reason for not including this in the estimates was the fact that a great deal will depend on the logger as to how much of this down timber will be taken. If the timber is milled in conjunction with the logging, the ground should be logged very close and all of this down timber accounted for.

There is another additional supply on the ground that if properly handled could be added to the estimate, and it is on the east and south portion of Lot A as also on the north and east side of Lot C there is considerable small fir and hemlock less than 14-inches on the stump, totalling upwards of from 6 to 8 million feet, and this can be turned into a profit.

When the ground is logged in the major operation this small timber could not be handled successfully with the larger timber owing to its size, but if a small portable mill was to be put in to follow right up behind it, and all of this small timber cut into what ever it will make, it can be turned into a nice profit, from the fact that the big expense (roads) are all ready in, and most of it will be knocked down, all the additional costs in connection with turning it into lumber would be the sawing, as the small mill could be built on skids and keep it right in the timber all the time, and instead of an encumbrance and a fire risk would be turned into a revenue.

the old Scottish Palmer camp- follow the old grade South for about one-third of a mile, and then cut South to the main hill along the South boundary of Block 47. From this point the route turns west along the logged sidehill, climbing at from a 10% to 12% grade to the edge of the old logging in the South-west corner of Blk. 231. This elevation- about 1,600 feet - is above the Bluffy slopes to Bear Creek, and the road can continue on a very slight grade to

1736 Japanese Claims Commission re Deep Bay Logging and  
E. Kageetsu. (1947-1948)



Ex 53

BLOCK - 195 - Lot A.

This subdivision takes in that portion of the lot that lies east of the V.L.M. Co's Block - 7 A., and shows a total area of 386 acres, out of which 363 are more or less timbered. The total found thereon is, 17,110.00 feet, B.M. and the following is the various species:

## Area A 386 Acres

|                                     |             |
|-------------------------------------|-------------|
| Fir -- 20" and over at stump        | 6,810,000'  |
| Fir -- 14" and under 20" at stump   | 3,280,000'  |
| Hemlock -- 14" and over at stump    | 5,370,000'  |
| Larch -- 14" and over at stump      | 520,000'    |
| White Pine -- 14" and over at stump | 150,000'    |
| Red Cedar -- 16" and over at stump  | 980,000'    |
| TOTAL FEET B.M.                     | 17,110,000' |

In addition to the above there is 830-Cedar Poles that will average 35-feet in length, 6 to 8" top and 12 to 16" stump.

QUALITY:-

The fir on this portion of the block is not extra large but is exceptionally long, sound clean bodied and straight, and will average according to the B.C. Grading rules on logs, 25% No.1, 60% No. 2 and 15% No. 3. This pertains to timber over 20" at the stump, according to B.C. Grading rules there would be no number one on anything smaller than 24-inches at the top end.

If a Mill were operated in conjunction with the logging operations, the percentages of number one stock would be increased on timber over 20" at the stump up to 40%, which would reduce the percentages on number two by 12 to 15% and also on number 3 from two to three percent.

On the Fir that runs under 20" on the stump, the mill would get from 5 to 10% number one stock, 50 to 65% No. 2 and the balance would be number three.

The White Pine, which is more or less scattered and on average small, although there are some very fine trees and it will grade up 60-40% in 1 & 2 grades.

the old Scottish Palmer camp- follow the old grade South for about one-third of a mile, and then cut South to the main hill along the South boundary of Block 47. From this point the route turns west along the logged sidehill, climbing at from a 10% to 12% grade to the edge of the old logging in the South-west corner of Blk. 231. This elevation- about 1,600 feet - is above the Bluffy slopes to Bear Creek, and the road can continue on a very slight grade to

1736 Japanese Claims Commission re: Deep Bay Logging and  
E. Kageyama (1947-1948)



COPY

A 2

Ref:

Lot - A. Continued

The Hemlock & Larch on this lot is comparatively small, but if cut and operated in conjunction with a mill, will give good returns, and will average 30-50-20% in 1, 2 & 3 grades of lumber. It is nice, long, clean, sound timber and will make a fine grade of lumber.

The Cedar, while small on an average except in the Creek bottoms and along the line of block 7-A or the south and west line of this subdivision, where there is some exceptionally large and fine trees and if logged in conjunction with a mill will return the following percentages, 25% Clear, 50% No. 2 and balance rough.

There is an exceptionally heavy stand of small timber Fir and Hemlock, that I have not considered in this estimate, but will be referred to later on in the report.

BLOCK 195 - Lot - B.

This subdivision takes in that portion of the block that lies to the west of the F. L. & M. Co.'s Block 7-A., and shows a total area of 316 acres, out of which approximately 282 acres are more or less timbered. The total found thereon is: 18,390,000 Feet, B.M. and the following are the various species:

Area B 316 Acres

|                                   |             |
|-----------------------------------|-------------|
| Fir -- 20" and over at the stump  | 12,220,000' |
| Fir -- 14" and under 20" at stump | 1,790,000'  |
| Hemlock 14" and over at stump     | 800,000'    |
| Larch " " " " "                   | 20,000'     |
| White Pine 14" and " " "          | 1,560,000'  |
| Red Cedar 16" " " " "             |             |
| TOTAL FEET B.M.                   | 16,390,000' |

In addition to the above there is 670 Cedar Poles that will average 45 feet in length and same top and stump measurements as on Lot A.

The fir on this lot is of an exceptionally high average both as to quality and size, very long, straight, clean sound and according to the B.C. Grading rules will in the log run 40% No. 1, 50% No. 2 and 10% No. 3. If operated in conjunction with a mill the number 1 stock will be increased to 50 and possibly 55% and number 2 reduced in a like proportion while number 3 grade will remain about the same. If a mill is equipped for handling there could be some exceptionally large size timbers taken off this lot up to 100 feet in length.

The route suggested is to leave the C.N.R. track at a point near the old Scottish Palmer camp- follow the old grade South for about one-third of a mile, and then cut South to the main hill along the South boundary of Block 47. From this point the route turns west along the logged sidehill, climbing at from a 10% to 12% grade to the edge of the old logging in the South-west corner of Blk. 231. This elevation- about 1,600 feet - is above the Bluffy slopes to Bear Creek, and the road can continue on a very slight grade to

1726 Japanese Claims Commission re: Deep Bay Logging and  
E. Kageetsu. (1947-1948)



COPY

A 2

P

Continued.

The Hemlock and Larch on this lot is very much larger than is that on Lot-A and of a better grade and quality and if operated in conjunction with a mill, will cut out from 5 to 10% more in number 1 stock which would reduce the percentage of number 2, number 3 remaining about the same as on lot-A.

The White pine, of which there are only a few scattering trees, will run about the same as that on Lot-A.

The Cedar on this lot is very much larger on an average than is that on Lot-A, and at the mill will cut out up to 40% number 1 or clear 35 to 40% number 2 and the balance rough.

#### BLOCK - 195 Lot C.

This subdivision takes in that portion of the block that lies to the north and west of the V. L. & M. Coy's Block 7-A., and shows a total area of 277 acres, out of which 270 acres are more or less timbered. The total found thereon is - 16,220,000 Feet B.M. and the following is the totals of the various species.

#### Area C 277 Acres.

|                                   |            |
|-----------------------------------|------------|
| Fir -- 20" and over at the stump  | 7,640,000' |
| Fir -- 14" and under 20" at stump | 890,000'   |
| Hemlock -- 14" and over at stump  | 1,280,000' |
| Larch -- 14" " " " "              | 1,490,000' |
| White Pine " " " " "              | 230,000'   |
| Red Cedar -16" " " " "            | 4,690,000' |

TOTAL FEET B.M. 16,220,000'

In addition to the above there are 910-Cedar Poles that will average 45 to 50 feet in length, 6 to 8" top and 12 to 16" at stump.

The Fir on this lot is practically of the same grade and size as on Lot-B as is also the Hemlock, the Larch in some places is the largest on the block as is also the Pine, while the Cedar is by far the largest on an average in the entire block but will not grade any better than what is on Lot-B.

territory lying between Block 231 and Blk. 195.

The route suggested is to leave the C.N.R. track at a point near the old Scottish Palmer camp- follow the old grade South for about one-third of a mile, and then cut South to the main hill along the South boundary of Block 47. From this point the route turns west along the logged sidehill, climbing at from a 10% to 12% grade to the edge of the old logging in the South-west corner of Blk. 231. This elevation- about 1,600 feet - is above the Bluffy slopes to Bear Creek, and the road can continue on a very slight grade to

1736 Japanese claims Commission re: Deep Bay Logging and  
E. Tagetsu. (1947-1948)



COPY

A 2

Ref:  
Annex 2,  
Personal Claim

EUSTACE SMITH, LIMITED

Timber Estimating  
and  
Topographical Logging Maps.

1114 Standard Bank Bld'g.,  
Vancouver, B.C.

March 23, 1940

GENERAL REPORT ON BLOCK 195-EASTERN PORTION  
COWICHAN LAKE DISTRICT - VANCOUVER ISLAND, B.C.

NOTES ON CRUISE: - The total cruise on this 385 acre portion, including small timber, is 12,715 M. feet - or an average per acre of 33M. feet.

Comparing the cruise made on this portion with the cruise made by Eustace Smith in 1923, we find the total timber almost identical. Presuming the re-cruise to show a total of about 31 million feet. The comparison, on the East end, shows that the second cruise is much the same for Fir, lower for Cedar, and higher for Hemlock.

LOGGING GROUND: - The block is traversed by the two branches of Bear River, one of which forms a deep canyon along the Northern boundary. The ridges back from the main creek gullies, however, are on the average, good logging ground and for the most part, well timbered.

A road traversing the Block at about the 1,750 foot level, would have a reasonable crossing of the South branch, and fair construction through the Eastern part of the Block.

A crossing of the main Western branch of Bear Creek could be made at a point just North of the North-east corner of this part of Block 7 A. From this point, which is above the deep canyon formed by this branch, the road could continue up both sides of the Creek into the Western portion of the Block.

QUALITY OF TIMBER ON EASTERN PORTION:- Of the 6,855 M. feet of logging Fir shown on the Eastern portion, 4,715 M. consists of a small to medium size growth, sound and long bodied.

The balance of, 2,140 M. feet consists of medium size, old growth Fir, in some cases over-mature, but averaging fairly sound. It should cut a large percentage of clear, fine grained lumber.

The Cedar is small to medium size - ordinary Shingle stock.

The Hemlock for the most part is small to medium size, clean, sound and long bodied.

The Pine is long bodied and of good sound quality.

ACCESSIBILITY:- From a preliminary study of a possible Truck Route into this Block, up the Eastern side of Bear Creek, we are of the opinion that a Truck Road can be constructed at a reasonable cost right into Block 195. As outlined above, this road can traverse the Eastern portion of the Block, and can be extended to reach most of the Western portion. In addition, of course, it would tap the E. & N. Territory lying between Block 231 and Blk. 195.

The route suggested is to leave the C.N.R. track at a point near the old Scottish Palmer camp- follow the old grade South for about one-third of a mile, and then cut South to the main hill along the South boundary of Block 47. From this point the route turns west along the logged sidehill, climbing at from a 10% to 12% grade to the edge of the old logging in the South-west corner of Blk. 231. This elevation- about 1,600 feet - is above the Bluffy slopes to Bear Creek, and the road can continue on a very slight grade to

✓ This comparison to hold over the  
entire block we should expect ✓

1736 Japanese Claims Commission re: Deep Bay Logging and  
E. Tagetsu. (1947-1948)



EUSTACE SMITH, LIMITED - GENERAL REPORT ON BLOCK 195 - EASTERN PORTION  
CONTINUED.

enter Block 195, about the 1,700 foot level.

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

Between Block 231 and Block 195 it will be possible to keep above the bluffy slopes near the Creek, and to keep the route in reasonably cheap construction.

Two routes are possible - one along the slope to Bear Creek where, the the 1,600 foot level, all but about 500 or 600 feet of rock work can be avoided; and the second, by swinging slightly East of the East boundary of Block 403, the route can pass through a 1,900 foot divide on easy construction. This route, of course, would require some adverse grade to traverse Block 195 at the 1,750 foot level.

REMARKS : - To reach the North boundary of Block 195 would require approximately three and a quarter miles of road. An additional five miles would be necessary to develop the Block itself.

The E. & N. timber lying East of Blocks 403 and 195 would all be developed by the same route, and would greatly reduce the cost per thousand of road construction.

EUSTACE SMITH'S ORIGINAL CRUISE, 1923, CHECKED BY ABOVE 1940, WAS DEFINITELY CONSERVATIVE.

|          |       |
|----------|-------|
| FIR:     | 18411 |
| CEDAR:   | 4043  |
| HEMLOCK: | 4765  |
| BALSAM:  | 2253  |
| PINE:    | 413   |
| CYPRESS: | 36    |

29921

==

This does not appear to have been in the body of the report but endorsed on the back

1736 Japanese Claims Commission re: Deep Bay Logging and  
E. Logetsu. (1947-1948)



COPY

Ref: Ross Report  
21st May, 1943.  
E. Kagetsu.

EUSTACE SMITH

Exhibit 3.

1114 Standard Bank Building  
Vancouver, B.C.

April 5th, 1943.

Messrs. P. S. Ross 7 Sons,  
Royal Bank Building,  
Vancouver, B. C.

Dear Sirs:

I am writing this in order to give you further information on the Crown Grant Block 195, Cowichan District, which you are proposing to advertise for sale by Tender.

This Block was cruised and valued by me for the E. & N. Railway Company at the time they made the original sale of the property, and since that time we made a further check, which bore out our original cruise, with only a slight increase in footage.

Our first estimate was as follows:

|          |          |
|----------|----------|
| FIR,     | 18,411 M |
| CEDAR,   | 4,043 "  |
| HEMLOCK, | 4,765 "  |
| BALSAM,  | 2,253 "  |
| PINE,    | 413 "    |
| CYPRESS, | 36 "     |

TOTAL . . . . . 29,921 M. FEET

The check cruise made in 1940 indicated the following:

|          |           |
|----------|-----------|
| FIR,     | 18,346 M. |
| CEDAR,   | 3,488 "   |
| HEMLOCK, | 6,625 "   |
| BALSAM,  | 1,993 "   |
| PINE,    | 508 "     |
| CYPRESS, | 36 "      |

30,996 M. FEET

Apparently, there was a cruise made for Mr. Kagetsu by Mr. P. F. Sheehan, which amounted to a considerably larger estimate than ours. I have discussed this disparity with Mr. Sheehan and am enclosing herewith a letter from him, which he considers explains the difference.

To give an idea of value, I would suggest the following:

That a price of \$3.00 per M. for the FIR, CEDAR AND PINE, and \$1.50 per M. for the HEMLOCK and BALSAM would be a fair price. This would indicate a total value of:

|                     |                                 |              |
|---------------------|---------------------------------|--------------|
| FIR, CEDAR AND PINE | 22,376,000 FEET @ \$3.00 per M. | \$ 67,128.00 |
| HEMLOCK AND BALSAM  | 8,618,000 FEET @ \$1.50 per M.  | 12,922.00    |
| TOTAL . . . . .     | 30,994,000 FEET                 | \$ 80,050.00 |

The above value would be for cash, or it's equivalent.

If the timber is sold on a stumpage basis, or on logging terms, the price should be 20% higher.

This is just for your information, and may be of some value when considering the Bids you will undoubtedly receive.

Yours very truly,  
"Eustace Smith"

1736 Japanese Claims Commission re: Deep Bay Logging and E. Kagetsu. (1947-1948)



COPY

Exhibit 3. (continued)

VANCOUVER, B. C.

APRIL 5th, 1943.

RE. BLOCK 195 - COWICHAN LAKE,  
VANCOUVER ISLAND, B. C.

TO WHOM IT MAY CONCERN:

With respect to the Report I made on this Block some 20 odd years ago, I may say that this Report was made with the view of logging and milling the timber right there on the ground.

*Wm. Schult* Anyone versed in the Milling and Logging industry here on this Western Coast, knows that there can always be a much larger recovery made on any tract of timber by this method, than from a straight Logging operation, for the reason that you are not handling anything but what you are getting returns from, aside from the over-run you get on the Scale - while in a straight Logging Operation you are hauling out at least 25% of waste from which you get nothing which adds to your costs, or deducts that much from your returns.

*Wm. Schult* With respect to the smaller timber, of which there is a very large percentage on this tract, and which it would be impossible for the Logger to handle from a straight Logging Operation and ever hope to get his money back, and I do not know of any of them that are in the business except to make money.

*easy* This particular tract is, by no means, an easy logging chance, owing to the fact that the ground is very badly broken in many places, and the cost of building roads to haul logs on will be very heavy in comparison to that required for hauling lumber - so that I would not recommend it to any Logger today, unless he was able to acquire it on the following timber values - viz:

|                    |                       |
|--------------------|-----------------------|
| FIR,               | \$ 3.00 per 1000 feet |
| CEDAR AND PINE,    | 2.50 per 1000 feet    |
| HEMLOCK AND BALSAM | 1.50 per 1000 feet    |

on the returns as made by the Eustace Smith Limited report, as I am satisfied he gave it all it will produce for such an operation.

" P. F. Sheehan "

I was with the B.C. Timber and Shingle Manufacturers' Association from 1940 to 1944 I was logging engineer for Blundell, Stewart & Welch and in 1944 I started my own practice and a year later joined C. B. Schulte & Company Ltd. I have been carrying on as a Forester and Forest Engineer in private practice to the present date.

I have had extensive experience in forest engineering on Vancouver Island and throughout British Columbia. The Vancouver Island stands of timber are of higher quality, are more valuable and stand on easier logging ground

1736 Japanese Claims Commission re: Deep Bay Logging and  
E. Kageyama. (1947-1948)



MINUTES OF EVIDENCE OF CHARLES D. SCHULTZ.

Re: Deep Bay Logging Company Limited and E. Kagetsu.

1. I live at <sup>1176</sup>~~1255~~ West 12th Avenue, Vancouver, B.C., and am the Governing Director of C. D. Schultz & Co. Ltd., Foresters and Forest Engineers.

2. I am a member of the Canadian Society of Forest Engineers, the American Society of Foresters, Forest Products Research Society, the Engineer Institute of Canada, and I am registered under the Engineering Act of British Columbia as a Forest Engineer and under the Foresters' Act of British Columbia as a Forester.

3. Experience: I graduated from the U.B.C. Forest Engineering in 1931. From 1921 to 1931 I was employed in the forest industries as a logger and lumberman, during which period I obtained my Log Scaling Certificate, & Lumber Grading Certificate. <sup>Upon my graduation</sup> In 1931 I joined the B.C. Forest Service and was with them as a Forest Engineer on forest <sup>Surveys</sup> service and management plans. I was with the B.C. Lumber and Shingle Manufacturers' Association from 1936 to 1939. From 1940 to 1944 I was logging engineer for Bloedel, Stewart & Welch and in 1944 I started my own practice and a year later formed C. D. Schultz & Company Ltd. I have been carrying on as a Forester and Forest Engineer in private practice up to the present date.

4. I have had extensive experience in forest engineering on Vancouver Island and throughout British Columbia. The Vancouver Island stands of timber <sup>generally</sup> are of higher quality, are more valuable and stand on easier logging ground.

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than does timber located in any other part of the Province, and also are more accessible to markets than most.

5. The timber on the area adjacent to Cowichan Lake is <sup>known</sup> renowned for its high quality. Fanny Bay area has also produced timber of <sup>superior</sup> ~~superior~~ quality.

6. I am familiar with Block 195 in the Lake Cowichan area and made a 4% stump examination of it during the first week in November of this year. The basis of the examination of Block 195, Cowichan District, is explained on Page 1 of my report. This is a factual analysis of the timber that is standing and was standing prior to logging on Block 195. The analysis was based on a 5% examination, i.e. 5% of the area was examined intensely and the result applied to the whole. Stumps were measured for diameter and height and converted to the measurement, breast-high, 4½ feet from the ground for purposes of compilation. The diameter, breast-high, measurements were then converted to volume by using ~~the~~ B.C. Forest Service volume tables. In applying these tables, ~~with~~ due regard <sup>was had</sup> for the local condition of the stand by using samples available, total height and ~~timber~~ <sup>diameter</sup> measurements <sup>were taken</sup> from existing standing timber. Deductions in volume were made for unseen defects and breakage, from inspection of ground and timber conditions.

12. I consider Block 195 a good logging chance because:

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To assess the worth of the cruise intensity

7. ~~To check the value of sampling,~~ <sup>total</sup> the samples of the westerly half of the Block were applied to the whole area and <sup>then total</sup> the samples of the entire Block were applied to the whole area. In each case the result was similar.

*It therefore follows that the intensity of examination was adequate.*

*The method applied, i.e.*

8. ~~That~~ is the most thorough basis, in my opinion, to arrive at the results that have been submitted and appear on page 2 of my report.

9. I was assisted by Mr. D. R. Bakewell, of my staff, in conducting this examination. Needless to say, I regard him as highly competent.

10. I had no prior knowledge of the results of cruises or timber estimates on Block 195 before I made my examination.

*I know the block of timber sold by Charles McGarrigle to Jack Allison in early 1944, and consider it to be inferior both to the timber on Block 195 and to the timber on Kagetau's Deep Bay operation.*

11. The basis of this examination which I conducted and its results should be accurate and correct since the stumps of the trees actually cut were measured.

12. I consider Block 195 a good logging chance because:

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- (1) ground slo
- (11) the topo
- (111) road co

- rock
- the
- (iv)
- (v)

To examine the work of the...  
...the samples of the...  
...the Block were applied to the whole area...  
...the samples of the entire Block were applied to the whole area...  
...In each case the results are similar.

...is the most thorough basis, in my opinion, to...  
...arrive at the results that have been listed and appear on...  
...page 2 of my report.

VII Amplify this: -

Where do the roads come  
into the Block?

Were they there in 1943?

I was assisted by Mr. D. R. Bennewell, of my staff,  
in conducting this examination. Needless to say, I regard the  
as highly competent.

10. I had no prior knowledge of the results of studies  
or timber estimates on Block 195 before I made my examination.

11. The basis of this examination which I conducted  
and the results should be accurate in the  
stamps of the trees actually cut and  
in the roads.

12. I consider Block 195 a good logging chance because



- (i) ground slopes are not steep;
- (ii) the topography is smooth and relatively unbroken;
- (iii) road construction is easy since there is very little rock and the ground has a high gravel content, eliminating the necessity of expense in road surfacing;
- (iv) the stand was of uniform density;
- (v) the timber appeared to contain only limited defect for a mature stand;
- (vi) any operator developing the area would have the advantage of drawing labour from the Cowichan Lake settlement and of the facilities for quick delivery of supplies and equipment;
- (vii) the area lies adjacent to a highway and rail transportation;
- (viii) the operating area is served by B.C. Telephone lines;
- (ix) superior booming facilities are available to the operation;

- Deep Bay -

13. I know the block of timber/sold by Charles McGarrigle <sup>near Nanoose</sup> to Jack Allison in early 1944, and consider it to be inferior both to the timber on Block 195 and to the timber on Kagetsu's Deep Bay operation.

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MINUTES OF EVIDENCE OF DR. BAKWELL.

re: Deep Bay Logging Company Limited and E. Kagetsu.

1. I have worked with Mr. C. D. Schultz since 1943 in Forest Engineering. I am a graduate of U.B.C. in Forest Engineering.

2. In company with Mr. C. D. Schultz I made an examination of Block 195, a copy of which has been filed at this hearing. The examination was made by actual measurements of stump diameters which were taken by me and Mr. Schultz and our assistants.

For: Morris & Baldwin,  
Solicitors & Barristers,  
Vancouver, B. C.

1736 Japanese Claims Commission re: Deep Bay Logging and  
E. Kagetsu. (1947-1948)



*Deserbo*

FOUR PERCENT STUMP EXAMINATION

of

BLOCK 195

LAKE COWICHAN DISTRICT

BRITISH COLUMBIA

NOVEMBER 1948

For:

Norris & Baldwin,  
Barristers & Solicitors,  
Vancouver, B. C.

1736 Japanese Claims Commission re: Deep Bay Logging and  
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INTRODUCTION:

The examination covered by this report was carried out over the entire area of Block 195.

The Meade Creek plan, the stage of development, logged, felled and bucked, and standing timber areas at the time of the examination <sup>are</sup> shown on the accompanying plan. The western portion of the area logged in Blocks 3 to 8 inclusive shows evidence of complete liquidation of all merchantable material. The remaining eastern portion has not been logged cleanly. Salvagable material remains on the ground and felled and bucked logs are lying in Blocks 13, 15 and 16.

METHOD:

(a) Control:

Existing British Columbia Land Surveys were used as control for the examination.

(b) Examination Strips:

Examination strips were run from existing Land Surveys and spaced twenty (20) chains, or thirteen hundred and twenty (1320) feet apart, except where obstructed by topography or present logging operations. These examination strips were run with staff compass and surveyor's chain.

(c) Timber Tallies:

By tallying stumps or trees for a distance of one half chain or thirty-three (33) feet on each side of the cruise examination lines, the timber on four percent (4%) of the area was recorded.

(d) Tally Records:

I. Standing Timber:

The diameter breast high of all sound trees on the tally strip was estimated with the guide of frequent measurements by

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diameter tape. All merchantable timber twelve inches (12") diameter, breast high and over, were tallied for volume conversion.

II. In the logged areas all stumps on the tally strips were actually measured for diameter and for stump height.

(e) Gross Volumes:

I. Standing Timber:

Volumes of trees tallied were compiled from volume tables. The volume compiled and tallied area was then applied to the adjacent untallied timber area.

II. Logged Areas:

Taper curves were compiled from measurements taken in adjacent standing timber to determine the rate of taper for the various species in the respective areas. The diameters of the various stump heights were then converted to diameter breast high (4 and  $4\frac{1}{2}$  ft. from the ground) to form a common basis of measurement for conversion to board measure.

(f) <sup>Volume</sup> Logging Tables:

British Columbia Forest Service Logging Tables were used as a base. Height and diameter measurements were taken of available trees as a basis for application of these tables.

(g) Breakage and Cull Factors:

Deducations were made for breakage and defects from inspection of ground and timber conditions. Average factors applied were as follows:

|                          |     |
|--------------------------|-----|
| Cedar .....              | 30% |
| Hemlock and Balsam ..... | 20% |
| Fir .....                | 15% |

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(h) Net Volume:

Net volumes were derived from deducting the breakage and cull volumes from the calculated gross volumes.

(i) Examination and <sup>P</sup>ensity Check:

Since the stand appeared to be uniform the result of sampling was compared. Samples from Blocks 9 to 19 were applied to the entire area and then samples from all blocks were applied to the same area. In both cases the calculated result was 55 million feet.

C. D. SCHULTZ & COMPANY LIMITED  
Foresters & Forest Engineers,  
Vancouver, B. C.

Dated at Vancouver, B. C. November 1948.

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DATE Nov 3

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| AREA<br>NUMBER | ACRES OF | MERCHANT-<br>ABLE | NON-<br>COMMERCIAL | TOTAL | Douglas Fir           |                             |                                |                           | Hemlock               |                             |                                |                           | Balsam                |                             |                                |                           | Redcedar              |                             |                                |                           | Yellow Cedar          |                             |                                |                           | Western White Pine    |                             |                                |                           | TOTAL                               |                             |                                |                           |                                 |                          |  |
|----------------|----------|-------------------|--------------------|-------|-----------------------|-----------------------------|--------------------------------|---------------------------|-----------------------|-----------------------------|--------------------------------|---------------------------|-----------------------|-----------------------------|--------------------------------|---------------------------|-----------------------|-----------------------------|--------------------------------|---------------------------|-----------------------|-----------------------------|--------------------------------|---------------------------|-----------------------|-----------------------------|--------------------------------|---------------------------|-------------------------------------|-----------------------------|--------------------------------|---------------------------|---------------------------------|--------------------------|--|
|                |          |                   |                    |       | NUMBER<br>OF<br>TREES | GROSS<br>VOLUME<br>(M.B.M.) | BREAKAGE<br>& CULL<br>(M.B.M.) | NET<br>VOLUME<br>(M.B.M.) | NUMBER<br>OF<br>TREES | GROSS<br>VOLUME<br>(M.B.M.) | BREAKAGE<br>& CULL<br>(M.B.M.) | NET<br>VOLUME<br>(M.B.M.) | NUMBER<br>OF<br>TREES | GROSS<br>VOLUME<br>(M.B.M.) | BREAKAGE<br>& CULL<br>(M.B.M.) | NET<br>VOLUME<br>(M.B.M.) | NUMBER<br>OF<br>TREES | GROSS<br>VOLUME<br>(M.B.M.) | BREAKAGE<br>& CULL<br>(M.B.M.) | NET<br>VOLUME<br>(M.B.M.) | NUMBER<br>OF<br>TREES | GROSS<br>VOLUME<br>(M.B.M.) | BREAKAGE<br>& CULL<br>(M.B.M.) | NET<br>VOLUME<br>(M.B.M.) | NUMBER<br>OF<br>TREES | GROSS<br>VOLUME<br>(M.B.M.) | BREAKAGE<br>& CULL<br>(M.B.M.) | NET<br>VOLUME<br>(M.B.M.) | AVERAGE NET<br>PER TREE<br>(M.B.M.) | GROSS<br>VOLUME<br>(M.B.M.) | BREAKAGE<br>& CULL<br>(M.B.M.) | NET<br>VOLUME<br>(M.B.M.) | AVERAGE<br>PER ACRE<br>(M.B.M.) | NUMBER<br>CEDAR<br>POLES |  |
| 1              | 47       |                   |                    | 47    | 11/14                 | 25,913,358                  | 204,154                        | 11/14                     | 1,758                 | 352                         | 1,406                          | 11/14                     | 1,758                 | 352                         | 1,406                          | 11/14                     | 1,758                 | 352                         | 1,406                          | 11/14                     | 1,758                 | 352                         | 1,406                          | 11/14                     | 1,758                 | 352                         | 1,406                          | 3396                      |                                     |                             |                                |                           |                                 |                          |  |
| 2              | 34       |                   |                    | 34    | 11/14                 | 18,659                      | 249,140                        | 11/14                     | 1,285                 | 257                         | 1,028                          | 11/14                     | 1,285                 | 257                         | 1,028                          | 11/14                     | 1,285                 | 257                         | 1,028                          | 11/14                     | 1,285                 | 257                         | 1,028                          | 11/14                     | 1,285                 | 257                         | 1,028                          | 3044                      |                                     |                             |                                |                           |                                 |                          |  |
| 3              | 46       |                   |                    | 46    | 11/14                 | 21,697                      | 255,442                        | 11/14                     | 869                   | 174                         | 695                            | 11/14                     | 869                   | 174                         | 695                            | 11/14                     | 869                   | 174                         | 695                            | 11/14                     | 869                   | 174                         | 695                            | 11/14                     | 869                   | 174                         | 695                            | 3194                      |                                     |                             |                                |                           |                                 |                          |  |
| 4              | 40       |                   |                    | 40    | 11/14                 | 20,832                      | 125,707                        | 11/14                     | 358                   | 1,432                       | 286,146                        | 11/14                     | 358                   | 1,432                       | 286,146                        | 11/14                     | 358                   | 1,432                       | 286,146                        | 11/14                     | 358                   | 1,432                       | 286,146                        | 11/14                     | 358                   | 1,432                       | 286,146                        | 1,931                     |                                     |                             |                                |                           |                                 |                          |  |
| 5              | 40       |                   |                    | 40    | 11/14                 | 13,456                      | 80,456                         | 11/14                     | 1,232                 | 246                         | 986                            | 11/14                     | 1,232                 | 246                         | 986                            | 11/14                     | 1,232                 | 246                         | 986                            | 11/14                     | 1,232                 | 246                         | 986                            | 11/14                     | 1,232                 | 246                         | 986                            | 1,784                     |                                     |                             |                                |                           |                                 |                          |  |
| 6              | 65       |                   |                    | 65    | 11/14                 | 1,177                       | 117,100                        | 11/14                     | 1,937                 | 387                         | 1,550                          | 11/14                     | 1,937                 | 387                         | 1,550                          | 11/14                     | 1,937                 | 387                         | 1,550                          | 11/14                     | 1,937                 | 387                         | 1,550                          | 11/14                     | 1,937                 | 387                         | 1,550                          | 2,775                     |                                     |                             |                                |                           |                                 |                          |  |
| 7              | 73       |                   |                    | 73    | 11/14                 | 1,197                       | 180,1017                       | 11/14                     | 2,998                 | 599                         | 2,399                          | 11/14                     | 2,998                 | 599                         | 2,399                          | 11/14                     | 2,998                 | 599                         | 2,399                          | 11/14                     | 2,998                 | 599                         | 2,399                          | 11/14                     | 2,998                 | 599                         | 2,399                          | 3,830                     |                                     |                             |                                |                           |                                 |                          |  |
| 8              | 40       |                   |                    | 40    | 11/14                 | 1,332                       | 200,132                        | 11/14                     | 768                   | 154                         | 614                            | 11/14                     | 768                   | 154                         | 614                            | 11/14                     | 768                   | 154                         | 614                            | 11/14                     | 768                   | 154                         | 614                            | 11/14                     | 768                   | 154                         | 614                            | 1,867                     |                                     |                             |                                |                           |                                 |                          |  |
| 9              | 86       |                   |                    | 86    | 11/14                 | 1,238                       | 186,052                        | 11/14                     | 894                   | 179                         | 715                            | 11/14                     | 894                   | 179                         | 715                            | 11/14                     | 894                   | 179                         | 715                            | 11/14                     | 894                   | 179                         | 715                            | 11/14                     | 894                   | 179                         | 715                            | 2,547                     |                                     |                             |                                |                           |                                 |                          |  |
| 10             | 70       |                   |                    | 70    | 11/14                 | 1,848                       | 277,571                        | 11/14                     | 1,722                 | 344                         | 1,378                          | 11/14                     | 1,722                 | 344                         | 1,378                          | 11/14                     | 1,722                 | 344                         | 1,378                          | 11/14                     | 1,722                 | 344                         | 1,378                          | 11/14                     | 1,722                 | 344                         | 1,378                          | 3,915                     |                                     |                             |                                |                           |                                 |                          |  |
| 11             | 26       |                   |                    | 26    | 11/14                 | 2,096                       | 314,1782                       | 11/14                     | 395                   | 79                          | 316                            | 11/14                     | 395                   | 79                          | 316                            | 11/14                     | 395                   | 79                          | 316                            | 11/14                     | 395                   | 79                          | 316                            | 11/14                     | 395                   | 79                          | 316                            | 2,635                     |                                     |                             |                                |                           |                                 |                          |  |
| 12             | 35       |                   |                    | 35    | 11/14                 | 798                         | 120,678                        | 11/14                     | 781                   | 156                         | 625                            | 11/14                     | 781                   | 156                         | 625                            | 11/14                     | 781                   | 156                         | 625                            | 11/14                     | 781                   | 156                         | 625                            | 11/14                     | 781                   | 156                         | 625                            | 1,987                     |                                     |                             |                                |                           |                                 |                          |  |
| 13             | 40       |                   |                    | 40    | 11/14                 | 1,580                       | 237,1343                       | 11/14                     | 652                   | 130                         | 522                            | 11/14                     | 652                   | 130                         | 522                            | 11/14                     | 652                   | 130                         | 522                            | 11/14                     | 652                   | 130                         | 522                            | 11/14                     | 652                   | 130                         | 522                            | 2,162                     |                                     |                             |                                |                           |                                 |                          |  |
| 14             | 30       |                   |                    | 30    | 11/14                 | 564                         | 85,479                         | 11/14                     | 588                   | 118                         | 470                            | 11/14                     | 588                   | 118                         | 470                            | 11/14                     | 588                   | 118                         | 470                            | 11/14                     | 588                   | 118                         | 470                            | 11/14                     | 588                   | 118                         | 470                            | 1,895                     |                                     |                             |                                |                           |                                 |                          |  |
| 15             | 37       |                   |                    | 37    | 11/14                 | 274                         | 41,233                         | 11/14                     | 684                   | 137                         | 547                            | 11/14                     | 684                   | 137                         | 547                            | 11/14                     | 684                   | 137                         | 547                            | 11/14                     | 684                   | 137                         | 547                            | 11/14                     | 684                   | 137                         | 547                            | 2,188                     |                                     |                             |                                |                           |                                 |                          |  |
| 16             | 50       |                   |                    | 50    | 11/14                 | 640                         | 96,544                         | 11/14                     | 480                   | 96                          | 384                            | 11/14                     | 480                   | 96                          | 384                            | 11/14                     | 480                   | 96                          | 384                            | 11/14                     | 480                   | 96                          | 384                            | 11/14                     | 480                   | 96                          | 384                            | 2,706                     |                                     |                             |                                |                           |                                 |                          |  |
| 17             | 50       |                   |                    | 50    | 11/14                 | 2,085                       | 313,1772                       | 11/14                     | 685                   | 137                         | 548                            | 11/14                     | 685                   | 137                         | 548                            | 11/14                     | 685                   | 137                         | 548                            | 11/14                     | 685                   | 137                         | 548                            | 11/14                     | 685                   | 137                         | 548                            | 3,265                     |                                     |                             |                                |                           |                                 |                          |  |
| 18             | 100      |                   |                    | 100   | 11/14                 | 3,150                       | 473,9617                       | 11/14                     | 1,800                 | 360                         | 1,440                          | 11/14                     | 1,800                 | 360                         | 1,440                          | 11/14                     | 1,800                 | 360                         | 1,440                          | 11/14                     | 1,800                 | 360                         | 1,440                          | 11/14                     | 1,800                 | 360                         | 1,440                          | 5,538                     |                                     |                             |                                |                           |                                 |                          |  |
| 19             | 40       |                   |                    | 40    | 11/14                 | 672                         | 101,571                        | 11/14                     | 880                   | 176                         | 704                            | 11/14                     | 880                   | 176                         | 704                            | 11/14                     | 880                   | 176                         | 704                            | 11/14                     | 880                   | 176                         | 704                            | 11/14                     | 880                   | 176                         | 704                            | 2,003                     |                                     |                             |                                |                           |                                 |                          |  |
| 20             | 30       |                   |                    | 30    | 11/14                 | 1,119                       | 168,951                        | 11/14                     | 924                   | 185                         | 739                            | 11/14                     | 924                   | 185                         | 739                            | 11/14                     | 924                   | 185                         | 739                            | 11/14                     | 924                   | 185                         | 739                            | 11/14                     | 924                   | 185                         | 739                            | 2,325                     |                                     |                             |                                |                           |                                 |                          |  |
| 70791          | 979      |                   |                    | 979   | 25,852                | 2,1971                      | 22,759                         | 4,552                     | 18,207                | 9506                        | 1,899                          | 7,606                     | 9,998                 | 3,000                       | 6,998                          | 98                        | 30                    | 68                          | 180                            | 156                       | 624                   | 55,474                      |                                |                           |                       |                             |                                |                           |                                     |                             |                                |                           |                                 |                          |  |

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re KAGETSU

November 24th, 1948.

CROSS-EXAMINATION OF EUSTACE SMITH

Re Block 195

FACTS

Eustace Smith cruised this Block in 1923 for the E & N Railway at the time of its original sale by them. His report on the Eastern portion dated 23rd March, 1940 is favourable to us other than as to amount. See underscored portions of copy.

On April 5, 1943 he reported to P.S. Ross & Sons giving the amounts of his original cruise and the amounts indicated by his check cruise in 1940 of the Eastern portion.

Purpose of questions to bring his cruise into line with Schultz's by showing:

- (a) that he did not cruise below, say, 20' D.B.H.
- (b) that in 1923 there was no demand for hemlock and balsam and in his cruise he took only a very small percentage of these species into account.

SECONDLY

2/ to show that in his relative valuations of fir, cedar and pine versus hemlock and balsam the assessment of one-half the value of the former for hemlock and balsam in 1943 is far too little. He valued fir and cedar etc. at \$3 and hemlock and balsam at \$1.50

The going log prices at that time were

\$19.50 for fir and

\$16.00 for hemlock and balsam

i.e. hemlock and balsam were worth - say - 4/5 the value of fir

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THIRDLY

Get him to agree that in utilization if you go from a 10" to a 6" top diameter you get a 30' log in a 1000 B.F. tree i.e. only 3% and in a 2000' tree that ~~you~~ would be reduced to 1 1/2%

COMPARISON OF SCHULTZ'S CRUISE WITH SMITH'S

disregarding hemlock and balsam

SCHULTZ

Fir 22,000,000

less 10%

19,800,000

Cedar

7,000,000

less 10%

6,300,000

Pine

624 M

less 10%

561 M

Cypress

68 M

less 10%

61,200

SMITH (1923)

Fir

18,411 M

Cedar

4,043 M

Pine

413 M

Cypress

36 M

12" DBH.  
12" DBH.  
Schultz

19,800 M

6,300 M

561 M

61,200

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C. Kagetsu. (1947-1948)



November 7th, 1948.

RE KAGETSU AND DEEP BAY LOGGING CO. LTD.

1. Put in map of Vancouver Island
2. put in other two tracings asking the Judge to disregard all markings thereon except the outlines of the lots
3. Refer to the terms of reference
4. Put in our letter with reference to this hearing
5. Judge's ruling that he will hear Kagetsu's claim and the claim of the Company together
6. Ask for production of documents from McPherson in accordance with our various letters to him and for the replies which are not shown in the correspondence which he furnished us
7. The claim covers
  - (i) Timber Limits - Block 195 Cowichan Lake, Deep Bay Logging operation
  - (ii) Logging equipment
  - (iii) Urban real estate
  - (iv) Automobiles
8. Our general submission is that the Custodian did not receive the fair market value for the assets which he sold because the sale was a forced one - not by a willing vendor to a willing purchaser - that Kagetsu had he been left in possession would have been a willing vendor only at prices greatly in excess of those realized by the Custodian - the Custodian not being equipped himself to make the best use of the properties by operating them in the best manner was not a willing vendor  
There was no reason for selling the timber limits.  
The Custodian was under constant pressure by the Timber Comptroller

See cross-examination of Holt

1726 Japanese Claims Commission re: Deep Bay Logging and  
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1. That the Custodian's policy in liquidation conformed with the practice of Ross & Sons in liquidation and windings up and unless the business being liquidated was carried on for some time by the liquidator the sale must be regarded as a forced one. There was no reason for selling the timber limits at all and there was no reason why Kagetsu should not have been left in possession save for a matter of policy in connection with the war. This matter of policy does not affect Kagetsu's right to receive further compensation or displace his position as an unwilling vendor.

The phrase "willing purchasers" means anxious purchasers

See

The King v. Lawson  
1948 Ex. Court Reports at 87  
"The owner is entitled etc."

We say that the purchasers were not anxious purchasers because

1. the Custodian's advertising was inadequate, insufficient to stimulate normal competition;
2. the Custodian's advertising contained a condition as to logging which was not conducive to obtaining the best price;
3. there was at the time a general idea that the assets of the Japanese who had moved from the Coast were to be had and should be sold for a relatively small price;
4. in view of the demand for timber the failure to make adequate bids indicates the existence of a ring which the Custodian could only have met by taking the property right off the market;



5. the market was not normal inasmuch as there were many more of such assets than would usually be the case - in view of the Japanese evacuation. The sale was not conducted in a normal way inasmuch as quantities were put on the market which normally would not be sold in that way.

Further, the Custodian in his anxiety to meet the wishes of the Timber Comptroller sought to get appraisals originally made reduced in order to justify the sale regard to him was taken as a matter of general policy

#### LOGGING EQUIPMENT

All sold at much less than the market value and, of course, sold in a forced way - its value as part of a going concern was greater than sold in job lots as it was sold.

The Custodian also endeavoured to get appraisals to justify sales at a low value.

Again, the vendor was not a willing or anxious vendor and the purchaser was not a willing or anxious purchaser

#### URBAN REAL ESTATE

The same arguments hold

#### AUTOMOBILES

No proper appraisal was made and not enough detail obtained.

1726 Japanese Claims Commission re: Deep Bay Logging and  
e. Kagetsu. (1947-1948)



All in all, our claim is based on the fact that the sale was a forced one and there was no need to sell at all

The Custodian owed a duty not only to the people of Canada but to the owners and, in fact, his main duty was to the owners.

This was not a case of alien enemies but a case of British Subjects in respect of whom no charge could be made that they had done anything whatever that was wrong nor, in the case of Kagetsu, was he even suspect. The action taken in regard to him was taken as a matter of general policy

Note: Conservative Socialism

Note: The fact that Kagetsu seemed to be willing to accept low offers is not to be held against him under the circumstances apart from the fact that his proposals were in very general terms the very relationship between him and the Custodian - the fact that he was being removed from the Coast and would not have an opportunity to carry on or had been removed from the Coast put him in the position that he was under pressure - in fact was under duress.

Stewart had no authority from Kagetsu and Stewart was the agent of the Custodian

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