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**BRITISH COLUMBIA FOREST PRODUCTS LIMITED
and
CROWN ZELLERBACH CANADA LIMITED**

v.

**ASSESSMENT AREAS OF CARIBOO, NORTHWEST,
COWICHAN VALLEY, NANAIMO,
COURTENAY AND PORT ALBERNI**

Supreme Court of British Columbia (A770234) Vancouver Registry

Before: MR. JUSTICE J.A. MACDONALD (in chambers)

Vancouver, February 25, 1977

L.M. Candido and B.J. Wallace for the Appellants
P.W. Klassen and K. Edmison for the Respondents

Reasons for Judgment

March 11, 1977

This is a case stated by the Assessment Appeal Board pursuant to s. 69 (2) of the *Assessment Act*, S.B.C. 1974, c. 6. British Columbia Forest Products Limited and Crown Zellerbach Canada Limited appealed to the Assessment Appeal Board from a large number of assessments, for the calendar year 1976, established by several Courts of Revision. These are the facts as set out in the stated case:

"1. These appeals to the Assessment Appeal Board were taken by the Appellants British Columbia Forest Products Limited and Crown Zellerbach Canada Limited against the aforementioned decisions of the Courts of Revision. The Courts of Revision confirmed the said assessments of the said lands.

2. The lands in question are of three different classifications as defined under the provisions of the *Taxation Act* (being Chapter 376 of the Revised Statutes of British Columbia 1974 and Amendments thereto).

The three classifications are:

(1) Timber Land:

(2) Forest Land:

(3) Tree-Farm Land.

3. A consolidated hearing of an appeal against all the decisions of the Courts of Revision above-mentioned was commenced by the Assessment Appeal Board on July 12, 1976.

4. At that hearing, evidence was adduced with respect to the following lands, which were selected by the Appellants from the lands which were in question before the Assessment Appeal Board to illustrate the manner in which all assessments under appeal had been made. This selection was accepted by counsel for the Crown as being representative of all properties under appeal.

- (1) Timber Land, Block 1320;
- (2) Timber Land, Block 1301;
- (3) Forest Land, Timber Licence 1305P;
- (4) Forest Land, Timber Licence 11563;
- (5) Tree-Farm Land, Tree-Farm No. 8.

5. The Assessor changed the amounts of the assessments of the subject properties of the Appellants for the year 1976 from those included in the 1974 assessment rolls.

6. The market value of merchantable timber on the subject timber lands and forest lands was determined by applying the zonal average stumpages by species to the volume of merchantable timber found to be on the said lands.

7. The volume of merchantable timber on the subject properties was determined by the assessor from annual returns filed by the Appellants pursuant to Sections 35 and 37 of the *Taxation Act*, Chapter 376, Revised Statutes of British Columbia, 1960 wherein *inter alia* the Appellant was required to show the volume of merchantable timber disclosed in the Annual Returns are based on the most recent cruises available to the taxpayer less any reduction in volume resulting from harvesting or natural disasters. Pursuant to Sections 35 and 37, when a new cruise is made of the timber on the property the taxpayer must file the report from such cruise with the annual return.

8. The Appellants were required to file a return pursuant to the *Taxation Act*, by the following dates for each of the two assessment years:

	1974	1976
(a) Forest Land	August 21, 1973	August 21, 1975
(b) Timber Land	September 21, 1973	September 21, 1975
(c) Tree-Farm Land	October 21, 1973	October 21, 1975

With respect to forest land and timber land, the Appellants were required to file the results of any cruise or recompilation of cruise information not previously filed, by the same date.

9. A cruise is a method of estimating the quantity of merchantable timber on a tract of land. It involves various physical measurements and determination of the species of timber in sample plots on that tract of land, which sample plots are established as being representative in volume and species of the entire tract of land. The volume of each species measured in the samples is then extended to provide an estimate of the volume of each species of the entire tract and the results are compiled into a cruise report.

10. In each of the subject timber land and forest land properties cruises which were made prior to the dates for filing the returns for 1974 as set out in paragraph 8 were the source of the volume of merchantable timber for the purpose of determining the assessment of the subject properties for the year 1974. The dates of such cruises were

Timber Land, Block 1320.....	1959
Timber Land, Block 1301	1959
Forest Land, Timber Licence 1305P	1916
Forest Land, Timber Licence 11563	1971

11. For each of the subject timber land and forest land properties new cruises were completed subsequent to the completion of the 1974 assessment roll and the result of such cruises were reported by the taxpayer pursuant to Sections 35 and 37 of the *Taxation Act*.

12. In preparing the assessment of the subject properties for the year 1976, the Assessor used the volume of timber submitted by the taxpayer in the annual returns filed for the year 1976. These returns showed volumes of timber on the subject properties as indicated by the cruises referred to in paragraph 11 hereof. In general the volume of timber indicated by the most recent cruises was substantially higher than that indicated by the annual returns filed in 1973 for the 1974 assessment year.

13. The difference in volume of merchantable timber on the subject properties as disclosed by the new cruises resulted primarily from the owner using different standards of merchantability and accessibility for the purpose of the most recent cruises. The different standards of merchantability were used due to a change in market conditions since the last cruise. The change in market conditions enabled a better utilization of the timber growing on the subject properties. The different standards of accessibility were used due to improved logging techniques and methods which also enabled a better utilization of the timber growing on the subject properties.

14. The increased volume indicated by the new cruises probably did not result from a net increase in the actual volume of wood growing on the property. While there is growth of individual trees, in mature stands of timber such as these there is also decay and the growth may be offset by the increase of decay in older trees. In addition old trees fall. In balance, the result is more or less static. The volume of timber remains fairly constant from decade to decade.

15. The zonal average stumpages by species is the price per unit of merchantable timber used by the Assessor to determine the market value of merchantable timber found in a particular appraisal zone. The price for the purpose of assessment is expressed in dollars per unit volume of merchantable timber. The timber land appraiser, an employee of the British Columbia Assessment Authority, and an expert who assists the Assessor in valuing timber lands, forest lands and tree-farm lands for assessment purposes has historically divided the Province of British Columbia into appraisal zones. The boundaries of these appraisal zones were determined by the similarity of marketing conditions common to the timber-growing lands making up each zone. The Appraiser then collects the Forest Service sales of timber over the period of one year for a given appraisal zone to determine the zonal average stumpages by species. The annual period for which such sales are collected for the purposes of assessment are for the period August 1st to July 31st of the year immediately preceding the calendar year for which the assessment is being prepared. Thus for the 1974 assessment the zonal average stumpages by species was derived from Forest Service sales prices collected for the period August 1st, 1972 to July 31, 1973.

This method of determining the zonal average stumpages by species has been used by assessors in assessing under the *Taxation Act*, and *Assessment Act* for at least 15 years. The zonal average stumpages by species used for the 1974 assessment was also used for the 1976 assessment.

16. The assessments of the said lands were calculated as follows:

(1) Timber Land, Block 1320.

This timber land is held by the Appellant Crown Zellerbach Canada Limited. It consists of some 1371 acres in the Nanaimo Assessment Area. The assessment for the period January 1, 1976 to December 31, 1976 was calculated by applying the same stumpage prices as described in paragraph 15 hereof which had been used in preparing the assessment for the area for the year January 1, 1974 to December 31, 1974 but by using as a basis for the calculation of such assessment the volume of timber disclosed by a timber cruise which the Appellant owner had obtained in September, 1974. The later cruise indicated a higher volume of timber than that indicated by the cruise which was used in preparing the 1974 assessments because of the changes referred to in paragraph 13 hereof. The Appellant owner had filed the information revealed by such cruise with the timber land appraiser for the Province of British Columbia in September and October of 1974, having received the information in September of 1974. The Appellant was obliged to file such cruise information under Section 37 of the *Taxation Act*.

Block 1320 was not logged between September 1st, 1973 and August 31st, 1975.

(2) Timber Land, Block 1301.

This timber land is held by the Appellant Crown Zellerbach Canada Limited. It consists of some 837 acres in the Nanaimo Assessment Area. The assessment for the period January 1, 1976 to December 31, 1976 was calculated by applying the same stumpage prices as described in paragraph 15 hereof which had been used in calculating the assessment for the area for the year January 1, 1974 to December 31, 1974 but using as a basis for the calculation of such assessment the volume of timber disclosed by a timber cruise which the Appellant owner had obtained in September 1974. The timber volumes in the later cruise indicated a higher volume of timber than that disclosed in the previous cruise which was used in the preparation of the 1974 assessments because of the changes referred to in paragraph 13 hereof. The Appellant owner had filed the information revealed by such timber cruise with the timber land appraiser for the Province of British Columbia in September and October of 1974.

Some logging of Block 1331 had been conducted from September 1st, 1973 up to and including August 31st, 1975 and the volume of timber cut and removed had been approximately as follows:-

Saw Logs	450 MBM
Pulp.....	144 Cords
Poles	45 lineal feet

(3) Forest Land, Timber Licence 1305P.

This timber licence is held by Crown Zellerbach Canada Limited. It consists of some 629 acres in the (Williams Lake) Cariboo Assessment District. The assessment for the period January 1, 1976 to December 31, 1976 was calculated by applying the same stumpage prices as described in Paragraph 15 hereof which had been used in calculating the assessment for the area for the year January 1, 1974 to December 31, 1974 but using as a basis for such assessment the volume of timber disclosed by a timber cruise which the Appellant owner had obtained in September 1974. The later cruise indicated a higher volume of timber than that indicated in the previous cruise which was used for the 1974 assessments because of the changes referred to in paragraph 13 hereof. The Appellant owner had filed the information revealed by such timber cruise report with the timber land appraiser for the Province of British Columbia under Section 35 of the *Taxation Act*.

Timber Licence 1305P was not logged between August 1st, 1973 and July 31st, 1975.

(4) Forest Land, Timber Licence 11563.

This timber licence is held by the Appellant British Columbia Forest Products Limited. It consists of some 376 acres in the Courtenay Assessment Area.

The assessment for the period January 1, 1976 to December 31, 1976 was calculated by using the same stumpage prices as determined in paragraph 15 hereof which had been used in calculating the assessment for the area for the year January 1, 1974 to December 31, 1974 but using as a basis for the calculation of such assessment the volume of timber disclosed by a recompilation of the sample measurements prepared by the Appellant owner and provided to the timber land appraiser. The Appellant owner filed the information revealed by the recompilation with the timber land appraiser for the Province of British Columbia on the 1st day of August, 1974. The recompilation indicated a higher volume of timber than that indicated by the cruise which was used in preparing the 1974 assessment because of the change referred to in paragraph 13 hereof. During the period from August 1st, 1973 to July 31st, 1975, logging of Timber Licence 11563 had occurred and 1,564 M.B.M of timber had been cut.

17. The Assessor assessed tree-farm No. 8 in accordance with Section 39 of the *Taxation Act*. The assessed value of tree-farm land was determined on an income approach, by the timberland appraiser calculating the present value of the anticipated revenue from present and future annual or periodic harvests from the trees growing and to be grown on the subject tree-farm lands.

Tree-farm No. 8 is held by Crown Zellerbach Canada Limited. It consists of 136 parcels of land owned by the Appellant in the Nanaimo, Courtenay and Cowichan Assessment Areas. All these parcels have been certified by the Minister of Lands, Forests and Water Resources pursuant to Section 38 of the *Taxation Act* as lands which are within the definition of tree-farm land as set out in Section 2 of that Act. The Appellant has complied with the provisions of Section 38 of the *Taxation Act*. In determining the value of the tree-farm land in accordance with Section 39 of the *Taxation Act* the Assessor in this case used the zonal average stumpages by species for determining the present value of the anticipated revenue from present and future annual or periodic harvests from trees growing and to be grown on the subject tree-farm lands. The present and future annual or periodic harvests were ascertained by the timber land appraiser from predictions of yield shown by the owner in his application for a tree-farm as such predictions were amended from time to time.

18. In determining the 1974 assessment of tree-farm No. 8 the Assessor calculated the present value of the anticipated revenue in the manner set out in Schedule 1. The periods used were based upon the anticipated annual revenue attainable from merchantable timber to be harvested on a sustained yield basis at the end of 36 years (period 1), at the end of 51 years (period 2), and at the end of 61 years (period 3), and from old growth timber for a three year period at the end of 12 years (period 4). To arrive at a total assessed value for the tree-farm land of \$212,939.00 the volumes were based on predicted yield supplied by the Appellant owner, as requested.

19. In preparing the 1976 assessment, the Assessor used the same zonal average stumpages by species used in preparing the assessments for the year ended December 31, 1974 but used a different schedule of annual or periodic harvest which schedule was provided after September 31, 1974. This different schedule of periodic harvest was supplied by the Appellant at the timberland appraiser's request. Schedule 2 sets out the manner in which the anticipated annual revenue within four future ten year periods and from the sustainable yield commencing thereafter is estimated. The Assessor also relied upon new yield prediction estimates which had been furnished to him in 1975 and, which had not been prepared and therefore were not available to him when he made the 1974 assessment.

20. The assessed value of timber lands and forest lands is and has historically been 50 per cent of the actual or market value of merchantable timber grown on forest lands and timber lands. The assessed value of tree-farm lands is and has historically been 100 per cent of the actual or market value as determined under Section 39 of the *Taxation Act*.

21. The parcels of land of tree-farm No. 8 assessed in 1974 were the same parcels as those included in the 1976 assessment.

22. The Board finds as a fact that the stumpage prices for the year ended July 31, 1973, and which were used in preparing the assessments for both 1974 and 1976 were significantly higher than the stumpage prices for the year ended July 31, 1975.

23. The Board further finds as a fact that the cruises upon which the Assessors relied in preparing the assessments for the year 1974 were accurate cruises, which used accepted standards in estimating the volume of merchantable timber.

24. With respect to the parcels of timber land and forest land herein, the Board further finds as a fact that the Assessors relied upon cruise information submitted to them in 1974 in making the assessment for 1976 and that such cruise information was not available to the Appellants and therefore was not available to the Assessors prior to December 31, 1973 and accordingly, such cruise information was not used in preparing the assessments for the assessment year 1974 by any of the Assessors.

25. With respect to the timber land and forest land the Board further finds as a fact that the cruises, and the recompilation submitted in 1974 by the Appellants indicated that there was a larger volume of merchantable timber on the properties under appeal than had been previously indicated but that this increased quantity was due to the reasons set out in paragraph 13 hereof.

26. With respect to the tree-farm land, the Board finds as a fact that the estimate of periodic sustainable yield submitted in 1974 by the Appellants indicated that there was a higher present value of the anticipated revenue from the present and future annual or periodic harvests from the

trees growing and to be grown on Tree Farm No. 8 than had been previously indicated; and that this higher present value resulted from the reasons set out in paragraph 19 hereof.

27. The Board further finds as a fact that logging is a change in the physical characteristics of the land and that this change was reflected in the preparation of the assessment for the 1976 assessment year.

..."

The questions submitted for the opinion of this Court are:

"1. In preparing the 1976 assessment of the timber lands and forest lands was the Assessor entitled in law to use volumes of merchantable timber estimated by cruises compiled subsequent to the completion of the 1974 assessment roll?

2. In preparing the 1976 assessment of Tree Farm No. 8 was the Assessor entitled in law to assess the property in the manner set out in paragraph 19 and Schedule 2 hereof?"

The first question must be determined upon consideration of provisions of the *Assessment Act*, S.B.C. 1974, c. 6, as amended. I quote those which are relevant:

"24. (1) Land and improvements shall be assessed at their actual value.

...

(6) Notwithstanding subsection (1) or anything to the contrary in this Act,

(a) except as provided in paragraphs (b), (c), and (d) and sections 25 and 27, land and improvements shall be assessed at the same value and on the same basis at which the land and improvements were assessed for the calendar year 1974;

(b) where a change in the value of land and improvements occurs by reason of

(i) a change in the physical characteristics of the land or improvements, or both;
or

(ii) new construction or new development thereto, thereon, or therein; or

(iii) a change in the zoning or reclassification of land and improvements

that is not included in the assessment roll for the calendar year 1974, the land and improvements shall be assessed at the same value and on the same basis as if those changes in value had occurred and had been taken into account in the preparation of the assessment roll for the calendar year 1974;"

s. 25, referred to above in s. 24 (6) (a), is not applicable. s. 27 deals only with tree-farm lands, which are the subject of the second question.

Stating it generally, the purpose of s. 24 (6) (a) was to freeze assessed values for subsequent years at those for the calendar year 1974. And there is no dispute that the subsection applies to

both timber lands and forest lands. As the facts of the Case reveal, the assessed value of timber lands and forest lands is, and has historically been, 50 per cent of the actual or market value of merchantable timber grown thereon.

In all the assessments the market value of merchantable timber was determined through multiplying the zonal average stumpages by species by the volume of merchantable timber found on the lands. So there have just been two elements in the calculation. One has been applied without change. In the assessments for the calendar year 1976 the same stumpage prices were applied which had been used in preparing the assessments for the year 1974. But the calculations for 1976 were based on a higher volume of timber than 1974; hence the increased assessed values.

The material discloses how the higher volumes were obtained. Pursuant to the *Taxation Act*, R.S.B.C. 1960, c. 376, the two taxpayer companies were required to carry out new cruises after completion of the 1974 roll and to report the results to the Surveyor of Taxes. They did so. Their returns, generally, indicated volumes of timber substantially higher than those reported in 1973 and used for the 1974 assessment year. The higher volumes were not the result of a net increase in the actual volume of wood growing on the lands. They resulted primarily from the taxpayer companies using different standards of merchantability and accessibility for the purpose of the most recent cruises. They did this because changes in market conditions enabled a better utilization of the timber and because standards of accessibility had changed due to improved logging techniques and methods.

Now the first question put to the Court is answered by the determination of a single point. The case for the assessors is dependent upon showing that there has been a change in the value of the lands occurring after preparation of the 1974 assessment roll by reason of one, or more, of the events set out in s. 24 (6) (b). Mr. Klassen submits that the test has been fulfilled because what occurred constituted a "new development" referred to in ss. (6) (b) (ii). Now a cruise is merely the process for determining the volume of standing timber. It involves no physical change in the land. The question is whether, nevertheless, the cruises completed after preparation of the 1974 assessment roll were a new development.

There is no need to turn to the dictionaries. People with a modest knowledge of the etymology of English words appreciate that a development may be an abstract thing. I do not accept Mr. Candido's submission that the word development in the context of ss. (6) (b) (ii) must mean something physical. I agree with Mr. Klassen that it need not have physical manifestations. The cruises in question were developments. Employing new concepts of marketability and accessibility they brought out, demonstrated, higher potentiality for the lands. They showed that some timber, which had been left out of account earlier, could now be cut with profit. They resulted in the ascertainment of a higher volume of merchantable timber than measured in earlier cruises and, therefore, a change in the value of the land. The assessors proceeded correctly. The answer to the first question is "yes".

For the consideration of the second question more of the legislation must be cited. One of the exceptions stated in s. 24 (6) (a) of the *Assessment Act* was s. 27 of the same statute. s. 27 reads:

"Land classified as tree-farm land under the provisions of the *Taxation Act* shall be assessed in accordance with that Act. "

Turning to the *Taxation Act*, sections 31 and 39 provide:

"31. The assessed value of land and improvements as defined in this Act shall be determined under the *Assessment Equalization Act*.

. . .

39. Notwithstanding the provisions of section 31, the assessed value of tree-farm land, exclusive of any improvements thereon, shall be ascertained only by giving consideration to the present use of the land and to the present value of the anticipated revenue from present and future annual or periodic harvests of the forest trees."

A freeze was imposed upon assessments of tree-farm land by s. 24 (10) of the *Assessment Act* which states:

"(10) Notwithstanding subsection (1) or anything to the contrary in this Act. for the purposes of subsection (6). the assessed values of tree-farm land under section 27 shall be determined at the same value level and unit-pricing periods used in the preparation of the assessment roll for the calendar year 1974."

I recall here that subsection 1 simply provides that land and improvements shall be assessed at their actual value.

Rather than paraphrasing, I quote part of paragraph 17 and paragraphs 18 and 19 of the case, to show how the assessor proceeded with his assessments of Tree-Farm No. 8 for the calendar year 1974 and 1976.

"17. ... In determining the value of the tree-farm land in accordance with Section 39 of the *Taxation Act* the Assessor in this case used the zonal average stumpages by species for determining the present value of the anticipated revenue from present and future annual or periodic harvests from trees growing and to be grown on the subject tree-farm lands. The present and future annual or periodic harvests were ascertained by the timber land appraiser from predictions of yield shown by the owner in his application for a tree-farm as such predictions were amended from time to time.

18. In determining the 1974 assessment of Tree-Farm No. 8 the Assessor calculated the present value of the anticipated revenue in the manner set out in Schedule 1. The periods used were based upon the anticipated annual revenue attainable from merchantable timber to be harvested on a sustained yield basis at the end of 36 years (period 1), at the end of 51 years (period 2), and at the end of 61 years (period 3), and from old growth timber for a three year period at the end of 12 years (period 4). To arrive at a total assessed value for the tree-farm land of \$212,939.00 the volumes were based on predicted yield supplied by the Appellant owner, as requested.

19. In preparing the 1976 assessment, the Assessor used the same zonal average stumpages by species used in preparing the assessments for the year ended December 31, 1974 but used a different schedule of annual or periodic harvest which schedule was provided after September 31, 1974. This different schedule of periodic harvest was supplied by the Appellant at the timberland appraiser's request. Schedule 2 sets out the manner in which the anticipated annual revenue within four future ten year periods and from the sustainable yield commencing thereafter is estimated. The Assessor also relied upon new yield prediction estimates which had been furnished to him in 1975 and, which

had not been prepared and therefore were not available to him when he made the 1974 assessment. "

Schedules 1 and 2 should be set out. They are as follows:

"SCHEDULE 1

LEGEND

M.b.m. - Thousand feet board measure

P.W. - Present worth

p.a. - per annum

yr. - year

C.c.f. - 100 cubic feet or 1 cunit

TREE FARM No. 8

1974 Assessment

Period 1

1. A volume of 18,837 M.b.m./yr. is sustainable after 36 years for this Tree Farm.
18,837 M.b.m. x \$23.18 (1973 average stumpage rate) = \$436,642.
Capitalized: \$436,642 ÷ 0.14 (agreed factor to capitalize earnings over 36 years) =
\$3,118,871.
P.W. of \$1 discounted for 36 years @ 8.5 per cent p.a. (agreed discount factor) = .0530
\$3,118,871 x .0530 = \$165,300 \$165,300

Period 2

2. 7,163 M.b.m./yr. is sustainable in 51 years
7,163 M.b.m. x \$23.18 = \$166,038
Capitalized: \$166,038 ÷ 0.14 = \$1,185,986
P.W. of \$1.00 for 51 years @ 8.5 per cent p.a. = .0156
\$1,185,986 x .0156 = \$18,501 \$ 18,501

Period 3

3. 8,654 M.b.m./yr. is sustainable in 61 years
8,654 M.b.m. x \$23.18 = \$200,600
Capitalized: \$200,600 ÷ 0.14 = \$1,432,857
P.W. of \$1 for 61 years @ 8.5 per cent p.a. = .0069
\$1,432,857 x .0069 = \$9,887 \$ 9,887

Period 4

4. 952 M.b.m./yr. for 3 yrs. in 12 yrs. (old growth)
952 M.b.m. x \$23.18 = \$22,067
P.W. of \$1 p.a. for 3 years @ 14 per cent = 2.322
P.W. of \$1 for 12 years @ 8.5 per cent p.a. = .3757
\$22,067 x 2.322 x .3757 =
\$19,251 \$ 19,251

Total Assessment

\$212,939

SCHEDULE 2

TREE FARM No. 8

1976 Assessment Based on 1974 Stumpages

STEP 1 1975 - 1984 - old growth

4,856 C.c.f./year for 10 years

4,856 x \$13.89 average stumpage rate per cunit but for a different species mix from that used for 1974 assessment = \$67,450

P.W. of \$1 p.a. for 10 years @ 14 per cent = 5.216

\$67,450 x 5.216 = \$351,819 \$351,819

STEP 2 1975 - 1984 - 2nd growth

2,265 C.c.f./year for 10 years

2,265 x \$4.59 = \$10,396

P.W. of \$1 p.a. for 10 years @ 14 per cent = 5.216

\$10,396 x 5.216 = \$54,226 \$54,226

STEP 3 1985 – 1994

12,729 C.c.f./year for 10 years, commencing in 10 years

12,729 C.c.f. x \$4.86 = \$61,863

P.W. of \$1 p.a. for 10 years @ 14 per cent = 5.216

P.W. of \$1 - 10 years @ 9.5 per cent = .4035

\$61,863 x 5.216 x .4035 =

\$130,200 \$130,200

STEP 4 1995 – 2004

10,445 C.c.f./year for 10 years, commencing in 20 years

10,445 x \$6.61 = \$69,041

P.W. of \$1 p.a. for 10 years @ 14 per cent = 5.216

P.W. of \$1 - 20 years @ 9.5 per cent = .1628

\$69,041 x 5.216 x .1628 = \$58,627 \$ 58,627

STEP 5 2005 – 2014

43,849 C.c.f./year for 10 years, commencing in 30 years

43,849 x \$8.99 = \$394,203

P.W. of \$1 p.a. for 10 years @ 14 per cent = 5.216

P.W. of \$1 - 30 years @ 9.5 per cent = .0657

\$394,203 x 5.216 x .0657 =

\$135,090 \$135,090

STEP 6 2015 plus to sustained yield

83,700 C.c.f./year sustainable, commencing in 40 years

83,700 x \$9.28 = \$776,736

Capitalized @ 14 per cent = \$5,548,114

P.W. of \$1 = 40 years @ 9.5 per cent = .0265

\$5,548,114 x .0265 = \$148,025 \$148,025

TOTAL

\$877,987

The submission on behalf of the taxpaying companies is that the assessor has proceeded in disregard of the statutory freeze. Mr. Candido argues that he was obliged by s. 24 (10) to determine the assessed values of the tree-farm "at the same value level and unit-pricing periods used in the preparation of the assessment roll for the calendar year 1974. This prohibited use, for the 1976 assessment, of the radically different schedule of annual or periodic harvests, which was supplied after September 31, 1974. Mr. Klassen contends that the assessor proceeded correctly in law. His argument also focuses upon the words in s. 24 (10) "at the same value level and unit-pricing periods". His position is that value level simply means the percentage of actual or market value, as determined under s. 39 of the *Taxation Act*, at which assessed value is to be fixed. And historically, the assessed value of tree-farm land has been 100 per cent of actual or market value. He submits that the only freeze imposed by s. 24 (10) is upon the stumpage and that is accomplished by the words "unit-pricing periods". In effect, the assessor is required to use the stumpage rates employed in the 1974 assessment and which were derived from Forest Service sales prices collected for the period August 1, 1972 to July 31, 1973. One difficulty with that argument is that ss. 10 uses the word in the plural - "periods" - rather than "period". Further, if the only freeze intended by the Legislature was that of maintaining 1974 stumpage rates, there would be no problem in expressing it in simple language. If this subsection had simply read, "at the same value level and unit-pricing used in the preparation of the assessment roll for the calendar year 1974" the case for the assessor would be more valid. But it appears to me that Mr. Klassen's submission renders the word "periods" completely redundant. The Legislature, in using that word, may have been referring to the periodic harvests which, under s. 39 of the *Taxation Act*, have to be taken into account.

In my opinion, the assessment method, employed in this case, was prohibited by the legislation. If I am wrong in that then I find the legislation ambiguous. All charges upon the subject must be imposed by clear and unambiguous language: Maxwell on Interpretation of Statutes, 12th ed. p. 256.

Question 2 which reads:

"2. In preparing the 1976 assessment of Tree Farm No. 8 was the Assessor entitled in law to assess the property in the manner set out in paragraph 19 and Schedule 2 hereof?"

is answered in the negative.