Mr. Cockburn.

TRANSCRIPT OF EVIDENCE

given before

THE ROYAL COMMISSION APPOINTED TO INQUIRE INTO
THE CAUSES AND ORIGINS AND OTHER MATTERS ARISING
OUT OF BUSH FIRES IN VICTORIA DURING THE MONTH OF
JANUARY, 1939,

held at

MELBOURNE.

on

TUESDAY, 28TH MARCH, 1939.

PRESENT:

HIS HONOUR JUDGE STRETTON, Royal Commissioner.

MR. GREGORY GOWANS, appeared to assist the Commission.

MR. E. H. E. BARBER, appeared on behalf of the Forests Commission.

MR. A. E. KELSO, appeared on behalf of the Melbourne & Metropolitan Board of Works.

MR. W. SLATER, appeared on behalf of the Forest Officers' Association.

MR. A. D. HARDY, appeared on behalf of the Victorian Branch of the Australian Forests League.

MR. W. SWINDON, appeared on behalf of the Victorian Bush Fire Brigades Association.

MR. BARBER: Your Honour was discussing with me yesterday the question of payment of bush fire fighters under the new award. I have obtained a copy of the award. It deals with the Australian Workers' Union and is Award No. 7 of 1937. The provision is rather a negative one. Clause 11 is the general clause that provides for payment of overtime for all work done in other than ordinary working hours. Sub-clause (5) of Clause 11 specifically exempts overtime with regard to fire fighting in Tasmania. The sub-clause states

2060.
"(6) This clause shall not apply to work to which the Bush Fires Act 1935 of the State of Tasmania and the regulations made under that Act apply."

That provision was inserted at the request of the Tasmanian counsel whose request must have been stressed better than mine, for while the exemption was given to Tasmania it was not given to Victoria. His Honour refers to it on page 17 of his judgment, where he discusses the question of hours and overtime and goes on to say:

"As to bush fire fighting in Tasmania, an exemption from overtime rates seems fair; the employee in such a case is in effect fighting for the protection of his own interests; Why they are not fighting equally for the protection of their own interests in Victoria I do not know. I am instructed that the result of the overtime clause applied to bush fire fighting is in individual cases that the Department has paid up to £26 a fortnight in wages to men normally on the basic wage."

THE COMMISSIONER: I do not want to make myself an industrial stormcentre, but it looks as if the recommendation ought to be that somebody else is allowed to fight in your forests. I am speaking only from your point of view.

...............EXHIBIT ............EXHIBIT "K.K." ............Award in the matter of the Australian Workers' Union and W.J. Abernethy and Others, No. 7 of 1937.

ROBERT STEVENS CODE, recalled and examined:

MR. GOWANS: Did you give some more thought yesterday to the matter of duties of an inspector of forests?---Yes.

And have you prepared a list of those duties in your case?---Yes.

Is this document the list?---Yes.

I will read it:
DUTIES:—

1. Staff.

Responsible for efficient performance of and regular attention to duty by all officers-in-charge and their assistants.

Consideration of leave applications.

Arrangements for relief of officers on leave.

Checking monthly journals and claims for expenses.

Recommendations to Commission regarding transfers and promotions and reports on conduct of officers in general.

Field demonstration to students of Creswick Forestry School.

2. Stores and Equipment:—

Inspection of Commission's motor vehicles and other major equipment and reports to Commission re purchase, use and maintenance of same.

Periodic inspections of general stores and decisions regarding condemned stores.

3. Silviculture and Works:—

Recommendations to Commission re works and allotment of labour to districts.

Consideration of all appropriations and estimates for works submitted by officers.

Recommendations to Commission re Annual Plan of operations submitted by each District Officer.

Dealing with Head Office queries re costs departure from estimates.

Inspection of proposed and current works on ground, directions to officers and foremen re execution of same.

4. Utilization:—

Inspection in field of areas applied for as saw-milling or grazing areas and reports to Commission re same.

Valuation of grazing areas.

Recommendations re royalty rates on forest produce in various districts.

Instructions to officers re conditions of exploitation.

5. Prosecutions:—

Decisions on legal proceedings to be instituted by district officers against forest offenders.

6. Land Classification:—

Field inspections and reports on all land.
the subject of proposed excision, alienation, dedication, exchange, or purchase by the Commission.

Joint inspections of such areas with District Surveyor of Lands Department.

Advise to Commission on matters of general policy regarding forest reservation or alienation in various localities.

7. General:
Confidential reports to Commission on matters of general or special nature.
Consideration of working plan proposals.

In general, exercising complete control over all forest matters within the Western Division in accordance with the policy and instructions of the Commission and acting in an advisory capacity to the Commission in all matters concerning field administration."

A note is added that Mr. Code is a member of the Bush Fire Brigades Committee. In the course of your evidence you referred to a report furnished to the Commission in March, 1936. Will you look at this document?—That is it.

The document reads:

"As the Prevention and Suppression of Bush Fires,

"I feel that it is my duty to approach you once again upon this subject and to place before you some of the facts gathered during my 35 years of active service on the field staff in various parts of the State.

"I feel that the publicity and propaganda being carried out is of very little, if any, benefit in the actual prevention and suppression of forest fires. No doubt various isolated units of the public occasionally take passing notice, but as the welfare of the future forests is not their business, and therefore does not directly touch their financial welfare they pass on to a more interesting and profitable subject. And thus it goes on as it has gone on in the past; Much has been published about the advantages of aeroplane patrol in spotting forest fires and the use of wireless for notifying same to the responsible
authorities. I maintain that this method is not altogether necessary nor successful... Furthermore, the spotting of fires by aeroplanes is rather like putting the cart before the horse; for, I ask, what is the benefit of spotting fires unless means are available to enable the mere man to reach the small fire and check its spread?

"Again the volunteer bush fire brigades, while rendering most valuable assistance when called out to forest fires, are naturally chiefly interested in the protection of private property. Thus they are not always available to attend forest fires. To successfully combat forest fires I maintain that the only practical method is to be prepared to meet all emergencies, such as arise on the worst fire day of the season. It is well known that the most destructive forest fire occurs during a period of hot north, or north-west winds. It naturally follows that sufficient and effective precautions must be taken to enable the staff to cope with fires occurring on such days.

"I contend that the element most successful in the suppression of forest fires is water. Rain is nature's method of quelling a fire; but unfortunately rain is not often available during bad fire days. In towns water is the chief element employed in the suppression of fires, but, again, city brigade equipment is not available for forest fires. It is said that forests attract and conserve moisture; but in actuality this is not always applicable, because many of the northern, western and central forest areas are really drier than the surrounding settlement areas. I have already submitted suggestions on the question of water storage in forest areas.

"I respectfully submit that the Forests Commission might take more active steps to protect the present and, in particular, the future forests by the establishment of
self-contained, mobile fire-fighting units in each separate
district, according to its topographical features and
requirements.

"I suggest further, that what might be termed the
'prevention and suppression of forest fires by dry methods'
could, with advantage, be also adopted to this end. This
method need only apply to forest areas which carry valuable
stands of young mountain ash, messmate and gum, such as
occur in the Otway Ranges and in Gippsland. I make the
following suggestions which are applicable to such districts:

1. The employment of an adequate staff of mountain fire-
guards and towermen with the necessary telephone connections.

2. The employment of small gangs consisting of experienced
forest workers (one foreman and four labourers) during the
summer months. Such gangs would be engaged in forest
improvement work and would be located in the most accessible
places.

3. Burning off inferior timber and scrub lands to the
north and north-west of valuable timber areas; such work to
be carried out during favourable weather and confined to
straps from 10 to 20 chains wide.

4. Establishment of a system of forest tracks suitable
for motor traffic on main ridges and on suitable spurs
leading to main ridges. Such tracks would form base lines
for natural fire-breaks. A strip on either side could be
burned off alternately, thus providing an ideal base for
back burning. Such tracks would provide ready means of
access for fire fighters and equipment, as well as for the
transport of forest produce. Provision to be made on all
such tracks for turning and parking places for motor trucks.

5. The construction of 12 ft. fire lines where possible
at intervals of not more than 40 chains, to connect with the
base-line tracks on the ridges. These 12 ft. lines to be
supplemented by the construction of narrow back-firing lines,
which would also serve as foot pads, thus giving ready access
to otherwise inaccessible places. In making the above
suggestion I have in mind the great difficulty experienced
in getting men to the actual scene of fires, particularly in
the otherwise inaccessible scrubby belts which occur in
wet forests.

6. A stock of tools to be kept at district quarters
consisting of rakes, axes, slashers, shovels, and knapsack
spray-pumps, also two 50-gallon water tanks suitably
equipped for motor transport.
"I recognise that much of the aforesaid system is already partly applied in some districts; but as a general practice it is much neglected, because district officers are reluctant to embrace them in their normal Plans of Operations on account of the extra expenditure involved. Provided that the funds are made available all the necessary detailed work can be capably performed by the district officers in conjunction with their instructors.

"A sketch plan to illustrate the lay-out of the tracks, etc. (vide 3, 4, 5 above) is attached hereto.

"I suggest that this scheme be given a trial in the Otway East district during the next financial year.

"(Signed) R. S. Code.

"Inspector of Forests".

Were those your views at the time when you wrote that?---Yes.

Have you had any reason to change them since?---No.

On the outside of the file is a Minute by Mr. Torbat, "Many of the suggestions made are embodied in plans now being prepared for districts of the Central Division". The date of that Minute by Mr. Torbat is the 8th of March, 1938, whereas the date of the report by Mr. Code is 6th March, 1936?---That is so.

(Continued on page 2057).
I suppose you were not trying to overstate the position when you said this "I recognise that much of the aforesaid system is already partially applied in some districts"?—No, I was not.

THE COMMISSIONER: What had been done between the occurrence of the 1926 fires and that report or suggestion of yours?—Ordinary precautions were taken, such as mounted fire guards.

Apparently not much had been done that was comprised in your report or suggestion, otherwise you would not have been urging the Commission to take those suggested steps?—As a matter of fact, I was not satisfied with the steps that had been taken.

As you say in your report, much of what you had suggested had been partly applied in some districts?—Yes; meaning that fire guards were employed, lookout towers established and connected with telephones in some of the districts, while other districts had been partly neglected. It was not a general application throughout my division.

You were speaking on behalf of the State rather than on behalf of your own inspectorate when you made that report?—That is so.

You were speaking in reference to all the forests you knew of, and not so much your own inspectorate?—Yes, it was a State wide comment, as it were.

After that report was furnished, did you note any renewed activity?—Yes. Speaking of my own division, we immediately got to work and established a roading system, with the object of preventing the small fires from spreading. By preventing the small fires, or stopping them before they got a roll on, such as occurs in Gippsland, we prevent the advent of big fires. Then there was a system of burning back from all established tracks or roads; namely, strips on alternate sides were burnt. Of course, we were fighting fire with water, and were establishing dams on the high levels, wherever possible. We were supplementing those storages by the provision of forty-gallon drums at
accessible places, on stands, from which they could be rolled on to a motor vehicle and quickly taken into a fire.

When you built a road of that sort, although it may be of great assistance in fire prevention and fire fighting, it is also of great value for winning or transporting of forest produce, as you say in your report?—Yes, we never lose sight of the fact that these roads are of use for the transport of timber.

To whose benefit is that?—That is of benefit to the Commission, as well as of benefit to the man loading the timber.

If you have not sufficient money allocated to you, could not you pass on the cost of the road to the miller?—That is suggested.

In other words, we found that where a miller has a good inlet to a sawmilling area, he is prepared to pay a higher royalty than he would otherwise be prepared to pay.

It reduces his overhead tremendously, and is a good means of transport?—In many cases a miller may have to construct five, six, ten or twelve miles of tramway, which costs from £500 to £800 a mile. If he has a road already made into that site, he can afford to pay a higher royalty for the same timber, we had that object in view all the time.

Since this money has been spent on roads in various forest areas, on roads which serve the millers, has the royalty been increased, or any payment demanded?—As a matter of fact, in my division we have not yet cut the timber available on those roads.

Do you know the practice in any other district or inspectorate?—I understand that where the roads are available, tenders are called for the timber.

Do they tender as to the amount of royalty they will pay?—Yes.

It may seem that we are getting off the track, but actually we are not. I am beginning to think that your view that roads are necessary is a very good one. I am wondering why the policy should not be pursued more vigourously, although there
is not sufficient money forthcoming for that work from government sources. Obviously it is of benefit to the miller. As you say, the miller does not object to paying extra when he has provided an easy means of transport. Do you know if it has been taken into account in other parts?---I think it has. It must be borne in mind that a system such as I propose is not intended to be completed within two or three years. Obviously it has to be done as the money is available. Obviously it could not be done within a short period. Do not you think that, even if you have to get a Government advance, that is a very good investment for the Government?---It is really the only way to protect the forests. It is a good investment in both ways, inasmuch as it is preserving the asset that is there, and it is returning a higher price for the timber. Has that view been put to anybody?---Yes, I think it has. I know that in the Otway district, where we connected up a road for fire purposes, and also for the transport of timber, the man who made application for that area on the mountain ash was quite prepared to pay at least 1/6 more than the other man, who had to put in tramways. His application was not granted, but he was prepared to pay that amount, provided that the road was completed for traffic. A tramway is not of much use to you in a bush fire, is it?---No. It would be preferable to encourage road making rather than tramway building, would it not?---From a fire protection point of view, yes.

MR. BARBER: Have not the royalties been increased on firewood in the Ballarat district, for the reason that there is available accessibility by those roads?---Yes.

THE COMMISSIONER: I suppose you see what I mean, Mr. Barber. I bring it up with this idea in my mind, that if you think the provision of these roads is a good idea, it is rather idle to suggest that they are not being built because of lack of
funds, for the reason that the cost can be passed on. The initial outlay is the stumbling block.

MR. BARBER: Yes, you must build a road and pay for such materials as you use, and over a long period of years that cost may come back to you by way of increased royalties, but you cannot pass on that additional cost immediately. You must have the money available in the initial stages.

THE COMMISSIONER: At Ballarat, the roads were constructed fairly cheaply, at 14/- a chain, I understand.

MR. BARBER: That is much cheaper than would be the case in Gippsland.

THE COMMISSIONER: In Gippsland the cost could be tremendous, I should think.

MR. BARBER: I am told that in Gippsland roads cost up to £800 a mile to construct. It would take a long time to get back £800 by way of increased royalties.

THE COMMISSIONER: Under the present view, you would probably construct about one chain a year at that price.

MR. BARBER: It is only a question of cost, and I think the question has not been lost sight of. It is not merely looked on as a means of fire escape, and, while it has its value for fire fighting purposes, it is recognised that they can and do recoup themselves as much as possible.

THE COMMISSIONER: If what has been suggested all through this inquiry is true, namely, that the Forests Commission is limited so far as money for this purpose is concerned, it seems a short sighted view to boggle at the spending of a few thousand pounds and to take the risk of losing millions of pounds' worth of assets.

MR. BARBER: It is a short sighted policy on somebody's part, but I submit it is not on the part of the Commission.

THE COMMISSIONER: Yes; I am not saying where the ultimate blame is, I do not think that I will go very far into it, and the Commission may have to fight it out with somebody else.

MR. BARBER: I propose to put the general financial position of the Forests Commission before you, but I do not propose to go...
right into it. I think that is the right attitude to adopt.

THE COMMISSIONER: If I find that is one of the ultimate causes of bush fires, it will be so stated, and the Forests Commission can then say, if it so desires, "We want more money". That is on the assumption that somebody takes notice of my report, but I do not want any grandiose ideas about my office as a Commissioner.

MR. BARBER: (To witness): You told His Honour that the report or comments read by Mr. Gowans applied to the whole State. That may be so in a general way, but you were not very familiar at that stage with what was being done and what plans were in operation in other divisions, were you?—No, I was not. So, although it was a comment applicable to the whole State, it was based on your knowledge of your own district?—Yes, partly, and partly on information received from other parts of the State.

In the way of conversations with people?—In the way of conferences. Of course, conferences have been going on over a long period of years, and I presume suggestions were being made at those conferences, from time to time?—Yes. The suggestions were being adopted from time to time?—I cannot say that.

THE WITNESS WITHDREW.

FINTON GEORGE GERRATY, Sworn and Examined:

MR. BARBER: Your name is Finton George Gerraty, and you are Inspector in charge of the Central District of the Forests Commission?—That is so;

When did you enter the service of the Commission?—As a trainee in 1915; I served three years at the Creswick school, and entered on actual field service in 1918.

You were for some months at the Broadford Eucalypt Nursery, at Heathcote, and at Port Campbell. In 1919, you went to the Orbost district, and were there for four years—two years in charge of the sub-district, and two years in charge of 2061.
the district?—That is so.

From 1923 to 1927, you were in charge of the Otway West district, with headquarters at Beech Forest. From 1927 to 1935, you were in charge of the Niagaroon district?—That is so.

In July, 1935, you were appointed Divisional Inspector of the Central Division, and you also acted in charge of the Niagaroon district. From 1936 to date, you have been Divisional Inspector of the Central Division, with headquarters at Berwick?—That is so.

Practically all your time, you have been in mountainous country?—Yes, practically all of my field service has been in mountainous country.

You were through the 1919 fires in the Plenty Ranges; through the 1926 fires in the Otway district; through the 1932 fires in the Rubicon; and through the last fires in 1939, you were at Powelltown, Healesville, Taggerty and Matlock?—That is so.

A question arose at one stage as to the knowledge of bush fires held by officers of the Commission, as compared with the knowledge of farmers and graziers. Roughly how many fires do you think you attended during your service?—In twenty years of service in the field, attending fires every year, I think a very conservative estimate would be ten fires each year, making two hundred fires attended under all classes of varying conditions.

That is fairly typical of people in the service who have been there as long as you have?—I think that would be fairly typical.

THE COMMISSIONER: I think the complaint was that many of the young men attached to District Officers did not have a knowledge of the district or of bush fire fighting.

MR. BARBER: The answer we are making to that is that, even if a man has been in the service for only two or three years, probably he has attended as many fires in that period as ordinary individuals living in the one district would attend in a lifetime.
THE COMMISSIONER: I do not think anybody criticised the experience of inspectors and men of long standing in the Commission: rather they looked to them for a lead in the matter.

MR. BARBER: I tender that evidence as showing the sort of fire attendance that people in the service get. Probably Mr. Gerraty attended sixty or seventy fires in the first three or four years of his service. (To witness) What are the areas in your district?—The area of reserved forest is 805,000 acres; protected forest, 660,000 acres; privately owned other land, referring particularly to Melbourne and Metropolitan Board of Works country, and country held by such Boards, 2,942,000 acres. The total area in the division is 4,407,530 acres.

THE COMMISSIONER: How much of that other land is under your dominion for fire fighting purposes?—With the exception of townships under the Proclamation - townships as Warragul, with over 1,000 inhabitants, which are spread practically throughout the whole of the area - the whole of that land is under my dominion.

MR. BARBER: What areas were burnt in the 1939 fires?—Of the reserved forests, 450,000 acres were intensely burnt, and about 100,000 acres lightly burnt, making a total of 550,000 acres burnt altogether. The percentages represented 58.4 per cent intensely burnt, and 12.5 per cent lightly burnt, or approximately 70 per cent of the reserved forest. Of the protected forest, 500,000 acres, representing 17 per cent, were lightly burnt, making a total of 34 per cent of the total area, or 1,000,000 acres of protected forest burnt over. The figure given for private property country is only an estimate, and it is difficult to say where all patches of private country were burnt. It has been estimated that 450,000 acres were so burnt, or a total of 2,000,000 acres have been burnt over.

Will you now deal with the origin of fires in January last?—I can
give those particulars for the various districts in the division, or the totals if necessary.

Q. ....... I think the totals for the whole district would be sufficient?—

In reserve forests, there were thirteen outbreaks during that bad period in January last. In protected forests, there were twenty-four outbreaks; on private property fifty-four outbreaks. Out of forest districts, probably that figure may have come in in relation to another division. That is possible, because, with regard to fires in the Toolangi-Kinglake country, that is on the border of the Central Division and the North-Eastern Division, but there were nine such fires in that period, making a total of one hundred fires recorded.

That was during January alone?—Yes, and fifty-four were on private property.

THE COMMISSIONER: Many of them were burning simultaneously?—Yes, on the bad days, there were quite a number.

If they all registered a day, there must have been a number burning simultaneously?—Yes, quite a number.

MR. BARBER: Have you made an analysis of causes of fires?—The number that spread from private property represented fifty-four; fires lit by graziers represented six; by sportsmen and others, two fires. With regard to that cause, the division includes the Gembrook country, which is a great deer shooting country, and we think that was definitely one of the origins of fire through there.

THE COMMISSIONER: How do the fires start from sportsmen?—I was in that country during the snow period last year, and it was impassable. I think it is fired to clean it up, to get an opening through. Fishermen are also included in those two fires. Deliberate firing represented six cases; forest workers, four cases; rabbiters, one case; lightning, one case; that is the one recorded fire that occurred in the Rubicon country—road and rail gangs, four cases; unknown origin, twenty-two cases. We could not
trace the origin of twenty-two outbreaks.

Who would the road gangers be, local council gangs?—They may be from Government or semi-Government bodies. An odd tree falls across the road; they light it and let it go. Very often people travelling through do the same thing when trying to burn their way through. If there is a log jutting out on the bush road, they try to burn a way past that log.

MR. BARBER: What do you mean by deliberate lighting?—Very often people have some definite objective for lighting a fire, such as the cleaning up of scrub. In other cases there are people who just want to see a fire, and deliberately light it for that purpose.

THE COMMISSIONER: Many fires are deliberately lit, but you class them as deliberate fires when they are not lit for the purpose of clearing, but are more likely to have been lit from the vindictive main or spectacular viewpoint?—Yes, something of that nature.

MR. BARBER: You do not mean men burning for grazing purposes?—No, that is classed as fires spreading from private property.

Will you describe the various types of country in your area?—You can roughly divide the Central Division into three types: (1) messmate-stringybark-silvertop belt, which forms the foot hill belt; (2) the mountain ash belt; and (3) the alpine or woolly butt belt on the high country. The division embraces the main Dividing Range from Kinglake to the intersection of the Mount Useful Spur (Macalister Thompson Divide) of the main Dividing Range and the spurs leading therefrom, namely, Baw Baw, Tooronga, Dandenong and Federation Ranges, and South Gippsland hill country. Elevation varies from 500 feet to over 5,000 feet. It is chiefly granitic and sedimentary country, with occasional basaltic intrusions. The rainfall varies from thirty inches to seventy-five inches per annum and a considerable area is subject to
heavy and prolonged periods of snow. That applies over the ash belt and through the woolly butt alpine belt. There may be some areas in which the rainfall is even lower than thirty inches, but, generally speaking, it is a heavy rainfall area.

What is the fire hazard of the messmate-stringybark-silvertop forest? These species are confined to the foothill country chiefly, and the origin of those fires indicates that the biggest percentage comes from private property, or from dirty country adjoining the forest there. The rainfall in that country is low, and the trees, besides producing a very inflammable bark to the main branches, are also usually of an uneven aged stand throughout. It is not an even aged stand forest, but there are dying and dead trees which occur. Quite a lot of the country had actually been selected in the early days, the trees were ringbarked, and those old ringbarked trees still remain. The forest floor is covered with inflammable undergrowth, unless the area is fully stocked, as we had it in a few cases, in which case the overhead canopy is sufficiently dense to prevent growth on the forest floor. In most cases it is sparsely foliaged and there is this dense undergrowth. Fire through this type of forest, if you can control it, does very slight damage, but it is very hard to control it. Naturally, in a very young forest of this species, the fire will wipe it right out. It is in this belt of forest that the most disastrous fires originate, whether within the forest reserve, protected forest adjoining, or private property. It is in that type of country that the most disastrous fires originate, in my opinion. From there they extend to the mountain ash forest with sufficient heat and front of fire to dry out the ash as it advances.

Do you regard your division as being particularly dangerous from a fire point of view? Yes, the division is particularly dangerous from the point of view of fire. However,
it is not for a long period. It has that heavy rainfall that I have previously mentioned, and generally for three months there is a particularly high fire risk. That is governed chiefly by the location of the area. For instance, there is part of the division north of the Dividing Range, the Alexandre-Rubicon country, and that country adjoins the typical north of the Divide climate, namely, a dry summer and a wet winter. A good deal of the division is south of the Divide, and throughout the year, it gets the coastal mists working in to the Baw Baw and similar country around there. I have a comparison of the average monthly rainfalls recorded for seven years for the Erica and Niagaroon districts. That indicates that the rainfall in the Niagaroon district, the north of the Divide country, during the summertime is 13.64 inches, and for the same period in the Erica district, it is 25.5 inches. In the winter months in the Niagaroon district, the rainfall is 20.65 inches, as against 20.47 inches in the Erica district. The Erica summer rainfall is higher than the Erica winter rainfall, but, in the Niagaroon district, it is just the reverse.

What conclusion do you draw from that?—It indicates that you would get a different fire hazard in the same species north of the Divide than you would get south of the Divide, necessitating different treatment.

THE COMMISSIONER: With prevailing sea winds, you would expect heavy rainfall on the southern side of the range, at least higher than on the northern side.

MR. BARBER: If it is Your Honour's wish, I will submit the figures as an exhibit.

THE COMMISSIONER: I think the fact is technically established.

MR. BARBER: (To witness) : Will you now deal with the alpine ash belt? The ash belt goes through between the messmate and stringybark belt.

(Continued on page 2068).
WITNESS (Continues): The mountain ash belts occur throughout the division and are confined to the heavy rainfall areas. Consequently, growth both of forest and undergrowth is rapid in these areas, but owing to heavy rainfall, it is difficult to start a serious fire in this area. This is particularly so in the case of ash forest on and south of the Dividing Range. The occurrence of ash north of the Dividing Range is confined chiefly to the Rubicon, Murrindindi and Acheron watersheds, and in these localities the dangerous fire period is longer. Mountain ash is a particularly fire tender species and will only survive a very light fire in mature or semi-mature forests, after the tree has developed the heavy persistent butt bark is found on this tree. Fire of any kind in young ash is fatal.

THE COMMISSIONER: What age is that?---Well, it varies. In some cases a tree will go from about eight to ten years, and in some cases you will find a tree which may be fifteen years old. It varies according to the exposure of the tree. We examined a tree -- another officer and I -- at the head of the Bunyip. It was about four feet in diameter, and at the head of the tree, it appeared to be green, and just a normal head; but we could see that fire had crept through this area, and the bark was practically dead, and the wood was showing indications of fungus attack then; and yet that had only been burnt about three months previously. We peeled some of the bark off to ascertain definitely what the effect was.

MR. BARBER: What have you to say with regard to the Alpine Ash Belt?---The forests of this type are confined to the higher levels and are on terraced formation or tableland. This belt extends from the upper limit of the mountain ash to the high plain or snow gum country. Scrub is almost absent in the alpine ash. Generally speaking, this belt is secure from fire, and risk from its damage is reasonably slight. As regards the Matlock locality --- ---

Fausong there for a moment. I understand you to say that there was no reasonable expectation of dangerous fires through that
area?---No, none whatever. I am certain that I did not expect a fire to sweep through that particular area. As a matter of fact, I understand that there was snow there on the 20th of December.

THE COMMISSIONER: I heard that there was a fall of snow there on the 1st of December?---Yes, I understand so, but a land officer told me that there was snow there on the 20th of December.

MR. BARBER: Before you go on to describe the fire protection works, you have some exhibits that you might show us. What is that fatal looking exhibit you have there?---This (indicating) occurred in the Court proceedings at Ferntree Gully. The object is to put a half candle under that (indicating) and at once a fire is started.

THE COMMISSIONER: What stuff is that (indicating)?---There is a piece of ravelled bark, or just some dry grass. There is the dry grass or ravelled bark placed around there (indicating). A half candle is lit, and a tin is placed there (indicating) to prevent it blowing out. As soon as the fire went up, there were the leading fire fighters of the district to suppress it.

MR. BARBER: Now let us come to the next matter—the fire protection works carried out in each district up to the 1st of January this year?---There were 760 acres of salvage felled. That is the timber that had been previously burnt by fire. Its only relationship to fire suppression is due to the fact that we got these dead trees; and, as I have stated, there were 760 acres of that so treated.

THE COMMISSIONER: When was that done?---That would be the work that was done in the Erica district, I should say. It was prior to the 1st of January this year.

Do you know where it was done?---There have been two or three salvage felling jobs, and this one followed the 1932 fires, I should say.

You should say, It may be so or may not?---Within the division; I
cannot exactly say where it was.

How can you tell me the exact acreage of that if you do not know where it is?—I could supply that, Your Honour.

I wish you would. It is no use for me to be told that a certain work was done, and when I ask you where it was done, you say you do not know definitely. What is the use of that?

MR. BARBER: I take it that you have just given us the figures, 760 acres. Where did you get those figures?—They are from the official records, and I am sure that I could get the location of it.

From the records compiled by whom?—From the records compiled by the Accounts Branch.

THE COMMISSIONER: Of course that is not evidence that would satisfy a Court at all, would it? You agree with me, I hope?

MR. BARBER: It is not evidence, except that in this enquiry we have taken evidence not strictly in accordance with Court rules.

THE COMMISSIONER: But it is a statement of fact, which cannot convince anybody, do not you think, when it comes to putting it before the person to whom it is tendered?

MR. BARBER: I admit that I did not realise that the figures tendered were taken in that way, but perhaps Mr. Gerraty can tell us something further. (To witness) Do you know if this particular selvedge belt was carried out in your division?—Yes. You got this figure from some figures that were supplied in the Head Office?—Yes, supplied by the District Officer when the work was carried out, and sent on to the Head Office.

But you do not know where this particular 760 acres is is that the position?—No, I do not know exactly which one this refers to within the division; but that can be found out and the particulars can be supplied.

THE COMMISSIONER: I will leave that to you, Mr. Barber. I cannot suggest; I suppose I ought to enquire; I was forgetting for the moment that I am a Commission of Inquiry. I will put it this way, such facts as ylu are putting before the
Commission, I should like to be in such form that they can be accepted. It gives me no pleasure, I can assure you, to criticise evidence put before me - none whatever; but I understand Mr. Gerraty to say now that certain works were done, but that he does not know what areas were selected to make up those works.

MR. BARBER: He knows that certain selvedge felling took place, and that also took place in his division. There are official records that are collected at the Head Office. He ascertains that there have been 760 acres felled in his division, and, as Inspector of the Division, he gives Your Honour these figures culled from the official records.

THE COMMISSIONER: Well, as you say, this bears no resemblance whatever to a Court of Law.

MR. BARBER: As regards the rules of evidence - - -

THE COMMISSIONER: It is not laxity of thought, but method. It is a different method, and that different method may have misled you;

MR. BARBER: That matter can be traced out in all its particulars.

THE COMMISSIONER: I would be very concerned to know over what period this was done.

MR. BARBER: I appreciate that, Your Honour. (To witness) What time was this done?---Prior to the 1st of January, 1939, and the figures relate to that type of work. It would be following the 1926 fires. Some would be done prior to the 1932 fires;

THE COMMISSIONER: That represents twelve years work in that department?---

Yes.

How many acres have you got that would need this treatment, do you think?---

At the present time?

MR. BARBER: Before the 1939 fires;

THE COMMISSIONER: Well, before the 1939 fires?---Well, there may be some thousands of acres of inaccessible country, and that we have no hope of doing anything with regard to that timber; and the selvedge felling was only an experiment.
Whether it was beneficial or otherwise is to be proved.

**THE COMMISSIONER:** What is the procedure? You take the dead trees, do you?—Felling dead trees, dead timber, really.

What do you do with them?—Well, in most cases most of the stuff was taken to the mills and converted.

**MR. BARBER:** Well, all these figures you quote extend for a long time?—Yes.

And are you purporting to quote from official records?—Yes.

What area is quoted as acres treated for liberation or regeneration?—67,294 acres.

Acres cleansed or actually thinned?—29,900.

**THE COMMISSIONER:** Is this for the same time?—Yes, up to the 1st of January.

**MR. BARBER:** Back to where?—Most of this work, as I have pointed out, commenced after the 1926 fires.

You say that there are 3,472 acres of coppicing done?—Yes.

**THE COMMISSIONER:** What is that?—Coppicing is generally done in the stringybark belt. Very often the trees will send up six or eight of these coppices.

What the ordinary man calls suckers?—Yes, I am referring to the removal of these and the disposal of them.

You leave what seems to be the best one, and you clear away the others?—Yes.

**MR. BARBER:** Getting on to the work that is definitely and solely of a fire protection nature. How many chains of firelines have you got in your area?—30,342 and a half chains have been constructed, and there were six dams for water conservation constructed; 8,530 chains of telephone wire erected; two lookout towers; 23,360 acres of patch burning carried out; 8,000 chains of old roads re-opened. Throughout that country there are quite a series of old mining tracks that have been put in, and we have re-opened them; and 16,050 chains of road or track have been constructed. That was new road or track in addition to be 8,000 chains of old road. The expenditure on that work in 1937 and 1938 represented £34,529; and for the
tracks of 1938 and 1939, up to the last fire, the expenditure was £17,823.

Do you remember what are your future plans with regard to fire policy?—

Definitely an extension of the road and track construction to enable maximum vehicles to get through. I was shifted from the Otway country in 1927, and, prior to leaving that district, I could not say what area it was that we constructed of fire break. All the work we did in connection with the fire break would have been the route of the proposed later road. Later, the Country Roads Board did build a road through there, and followed that fire break that we put there, deviating in one or two places with a view to improving the grade; but that was the objective. That was as early as 1927.

MR. BARBER: You are putting it that the idea was as early as 1927?—

Yes, that was the earliest work that I did of that nature; I could not say when it started before that.

I suppose that with the development of motor vehicles, enabling them to be useful in rough country, would only occur in comparatively recent times?—Yes.

Of course, I understand now that you have got means of getting in there through the roads?—Yes, in 1934 there was the earliest equipment of motor vehicles in this regard.

Of course, the matter of transport for the removal of forest produce would be comparatively new, would it not—a new idea?—Yes, certainly; it is within the last three or four years.

You started off in the extension of roads and track construction, what else?—The provision of motor vehicles for the rapid transport of men, and the equipment, an extension of the present system to enable fires to be located.

What is that system? More lookout towers?—More lookout towers, and telephonic communication between these towers and the district headquarters and, contrary to a previous witness, I believe that the aerial spotting has definite and distinct possibilities. I have flown over that area in a plane, and
it is really remarkable the small wisp of smoke that can be picked up. Otherwise, those on the ground are looking against a background of hazy hills, and the smoke is not as easily picked up as it is against the dark green background of the forest. I say that I am quite convinced that there are distinct possibilities for aerial spotting in the detection of fire outbreaks.

Your other matter had reference to the policy of constructing dams for water supply?---The dam construction in the Central Division is almost entirely confined to the messmate and silvertop belt. The ash country is usually well watered with running streams, and it means only a few sandbags placed in the running creeks to conserve a good supply. As regards the actual construction of dams, there is the messmate and silvertop in the Erica district, and in another district there was an old mine race that came out of the Lang Creek. We have reopened that for seven miles, and brought it almost parallel to the road, crossing the road at various places; and that supply is available for carting. It possibly opens and doubles the quantity of water in that country.

You suggest that one policy should be observed with regard to fire?---Yes, I think that at the present time there are too many bodies controlling fire matters. You can go right through various Government Departments, and I think that they are all more or less interested in the same matter — right from the local bodies downwards — down to the Shire Council; and all have different views of fire, and all have different ideas of how to cope with it.

What about control of grazing?---The actual rental collected from the Central Division last year was £27, and of this £22/3/6 was derived from grazing messmate rentals, and £4/8/7 from agistment fees.

There is not much grazing round that part?---No, most is under the control of the Lands Department as regards grazing.
The total was £27/1/6 in the mountain ash country, and I think it is most undesirable. The two main fodder plants are wiregrass and wild oats, and wild oats means the killing of the ash, and wiregrass is of no value unless it is regularly burnt; and both of them are an inducement to light fires; and throughout the ash country, I think it is much the most fired timber. I believe that the little that is collected from grazing could be well cut out altogether.

You think that there should be only agistment and no leasing system?——Yes. Another matter is the fear of prosecution in lighting fires.

You have got a suggestion to make as regards land adjoining the Forests Commission land?——Yes, it somewhat resembles that of a Police Offences Act. I suggest that where a landholder adjoins or is within one mile of State forest, the Commission should receive twenty-four hours notice in writing that the landholder intends to burn off, and likewise the Commission should notify landholders within one mile of the forest boundary when it intends to burn off within one mile of the boundary of private property. It means that if we know that a settler intends to burn, we can have a departmental man present, and the landowner can do likewise.

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TH. WITNESS (CONTINUING): At the present time when there is a fire, no one knows what is happening until it is a big fire.

MR. BARBER: Have you any ideas on the question raised yesterday regarding the shifting of mills out of the forest?—I do not think it would be economic at the present time. If forests were perfect forests with sound trees, you could expect removal of all the trees within the forests, and that would be all right, but where our forests contain a big percentage of cull trees, it is only natural that the timber that will be taken out will be from the first class trees, and whether we will not have an added fire risk by leaving these culls there, with dead trees, is a matter for consideration, and I am inclined to think that there would be an added risk.

You mean that economically, after the good trees are cut out, many trees are left that are not worth carting to mills outside the forest?—That is my opinion. There is another matter and that is that until the roads are developed to a greater state of perfection, log timber will not keep as well as sawn timbers. To feed a mill outside a forest would involve the carting of a sufficient quantity of logs from the mountain ash country particularly, when the roads were passable, so that the mill could be kept going in winter. The present condition of the roads would not permit of a continuous supply.

THE COMMISSIONER: That would involve extra handling?—Logs deteriorate with keeping and handling. They shatter in log form, and it is hard to cut anything out a log that has been opened up at the end. The storage of logs to keep mills going during the winter period would be a serious problem in carrying out a policy of having the mills outside the forests. The mills in the forest can get their winter supplies through snigging the logs around the mill, and the sawn timber can be stacked at the mill where it can keep.

To take the mills out of the forests would involve suitable roads; in winter these roads would require to be very good, and many of them would be impassable under present conditions?

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MR. BARBER: In the case of mills now situated out of the forests, how do they get over these difficulties?—There are no big mills so far as I know in that position. The Powelltown mill is in the forest. It is an old established mill and the logs are brought the best part of 10 or 12 miles over a steel tramway. They could not rely on roads there. Mountain ash country is bad roading country, and that is generally recognized by the Country Roads Board.

Have you any other matters you wish to refer to in the light of evidence you have listened to in Melbourne?—There was that matter of the multiplicity of control. I mentioned that. There is another matter of the value of a forest. That can be divided into three or more sub-divisions. I would divide the sub-divisions as, firstly, timber production, recreational roading—instance of that is in the Dandenong country—and water conservation. These are three values you have to attribute to forests. A forest might serve all these purposes. I believe in the United States, even in the National Park, the removal of timber commercially is done with these general ends in view. As to bush fire brigades, it is difficult to organize them throughout this country for the simple reason that people depend on fire for clearing their land. Fire is regarded as a friend in Gippsland and in the Central Division country. It is regarded as a necessity, and anything in the way of putting fires out is only a secondary matter. The people prefer to see fires burning in many cases. I was secretary of a small bush fire brigade in one district for seven years, and I found that although there was only a small subscription, the membership in most cases comprised labouring men around the place, men who did not even own their own houses in some cases, and they were contributing towards paying subscriptions annually while some of the landholders refused to pay. It is difficult in some circumstances to organize these bodies.
COMMISSIONER: In some places that work is carried out by the local shire authorities?—That is the case in the Mansfield district. The local government deals with that on a basis of valuation and acreage.

MR. BARBER: I cannot place my hands on the list of mills given to us by Mr. Roberts when we were discussing the mills that did not burn the tops. That relates to the area around Erica. One of the mills was Morgan's mill. Were you present when Mr. Roberts gave his evidence?—No.

What has been the policy throughout your division? Take the area he mentioned?—The general policy right throughout the division is to burn the tops without injury to standing timber.

What about the mills in the Erica district generally—are you familiar with them personally?—It depends on which of Morgan's mills you are referring to. The lower mill operating in the messmate country is known to me. I was in that area recently and that was burnt. That was about October. The heads were burnt there. I did not enquire under whose instructions this was done.

I do not suppose you can say specifically what the practice is in regard to the other mills. Your instructions are, as you stated, and your belief is that these instructions are carried out?—That is so.

MR. SLATER: I understand that the Commission has had prepared a statement of the duties of a forest officer in charge of a district. I have a copy of this statement before me, and I shall hand it to you for inspection. (Statement handed to witness).

Have you seen one of these statements before?—Yes.

I understand that this statement—two pages—does not quite indicate the scope and nature of the duties, and that a further statement—three pages—has been prepared, and I propose to question you about you about this second statement. I take it that one of the first duties of a forest officer is the control of the subordinate staff of his district?—That is so.
And the next major duty is the control and supervision of licensed operators utilizing forest produce?--That is so.

I shall hand this second statement to you. I do not want you to read it through in detail, but I should like you to glance at it.

(Statement handed to witness for inspection). Have you seen this second statement before?--Yes, I think I have seen it, but I am not certain of it, though.

MR. GOWANS: I should like that statement to go into the transcript of evidence.

MR. SLATER: I think it is desirable that it should go into the transcript. It is an amplification of the duties put in earlier. I thought it appropriate to ask the witness whether this represents the actual position.

THE COMMISSIONER: If he assents to it, you can put it in. By whom was this statement prepared?

MR. SLATER: That has puzzled me. It has been prepared by someone in the office. It is a pretty wide statement. At any rate, I should like to ask the witness some questions regarding this further statement. (To witness): Under the heading of forest utilisation the duties of a forest officer involve the control and supervision of licensed operators utilizing forest produce and concurrently directing their work to give effect to the pre-determined policy of forest management for the particular area where work is being undertaken. This control involves, according to the statement,

"(a) fixing boundaries of milling areas; direction of order of cutting thereon; planning and locating tramlines and other logging and extraction routes,

(b) Allotment of cutting areas for other types of utilisation, that is, sleeper hewing, pole and pile cutting, post splitting, pulpwood and firewood cutting,

(c) Marking trees for felling for each type of produce mentioned, including mill logs, and supervision of conversion operations.

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(d) Issue of licences, accounts, and receipts, collection of royalty on forest produce, and general correspondence with the Inspector, Head Office and purchasers in connection with forest exploitation."

These are all the items under the heading, "forest utilization".

Do you agree that they are all within the scope of the responsibility of the forest officer?—Yes, but in the case of (c) "marking trees for felling" for each type of produce mentioned including mill logs", in certain cases all mill logs are not branded for felling. Generally speaking that is so.

I do not think that paragraph refers to marking all trees for felling. There are certain exceptions?—Yes.

And now we come to the next heading, "Forest works - Silviculture and Utilization". Under this heading, it is the duty of a forest officer to undertake the supervision of essential works which are impracticable or uneconomical to undertake in conjunction with exploitation operations of licences?—That is so.

These duties involve the following:

"(a) Prepare and submit annually proposals for these works to be undertaken during the ensuing year, with explanations and amplifications of the reasons for their immediate necessity.

(b) Intensive definition of projected works and estimated costs.

(c) Supervision of works undertaken, and control of employees engaged thereon - normal forest employees and relief works. This necessitates a thorough understanding of the various applicable Arbitration Court Awards and State Determinations?—Yes.

THE COMMISSIONER: Which is impossible.

MR. SLATER: I agree, Your Honour, particularly with the changes that
take place from time to time. (To witness): The duties of a forest officer also include the supervision of the "Organization of forest camps, particularly for relief workers engaged on unaccustomed work frequently under severe and trying climatic conditions?—"They usually find some reason to find something wrong."

But generally speaking the relationship between forestry officers and relief workers in these camps has been harmonious. There are no riots?—No, they generally try to work in together.

And, continuing the statement of duties, they involve:

"(d) Control of method of work in connection with and direction of employees engaged in, regeneration and liberation operations, cleaning, thinning, coppice treatment, salvage cuttings, final fellings and conversion to marketable form any produce derived therefrom. Silvicultural work of this nature demands a thorough knowledge of the optimum type of treatment to suit each particular forest type under varying local conditions.

(e) Surveys of completed forest works such as silvicultural treatment, forest roads, firebreaks, etc."?—Yes.

These are all matters upon which I assume reports are called on from time to time?—Yes, that is so.

Dealing now with fire protection. Has not the officer in charge of a district direct responsibility for the protection of all properties within his district?—It is his responsibility. He does his best in that direction.

Yes, but it is his responsibility, and not the responsibility of a subordinate officer?—It is the responsibility of the officer himself.

It is primarily the responsibility of the officer?—Yes.

Can you outline his duties in respect to that control of fire protection?—The organization of staff, the placing of staff so that they can deal with outbreaks and so forth, and the
supervision of the actual work, seeing that all equipment is in good order, and that there is sufficient of it.

Whilst dealing with that subject, it was a matter of evidence at Alexandra that junior officers exercised some control over these areas, and in some circumstances their experience was not so considerable as to justify the making of decisions by them. Can you indicate to the Commission the nature of the extent of the responsibility of subordinate officers in these circumstances?—Well, they would be directly under the supervision of the senior officer in charge of the division who would move around between the various works carried out. I know of one instance where I had to leave the district in which there was a fire and I appointed an experienced charge foreman to take charge of a fire although there was an assistant forester there, but he admitted to me that he had not sufficient experience or rather not the experience he would like to have to deal with a fire in that district. He came from the northern district. I made the charge foreman responsible to me for looking after that fire. He was an experienced man. He is a forest overseer. Generally speaking, I have found young officers, if you tell them what to do, are quite satisfactory. With their knowledge of the locality, they do good work, and I prefer myself to have young men for fire-fighting in that country under instead of over me.

The report continues: "defining the principle duties of a forest officer in respect of fire protection -

"(a) organization of staff (employees and fireguards) so that they are most advantageously placed to direct and fight fires,

(b) Organization and maintenance of efficient patrols, lookouts, means of communication, etc.,

(c) Organization and supervision of controlled patch burning on inferior areas,

(d) The planning and/or execution of protective works - patrol tracks, firebreaks, communications,
(e) Maintenance of firefighting equipment in effective condition.

(f) Organization and direction of volunteer and paid firefighting squads.

The duties are further described in relation to forest estate:

"(a) Inspections, reports and recommendations in connection with proposed additions or to excisions from the forest estate, and purchase of land, exchange, and permissive occupancies for forest purposes.

(b) Examination, reports and recommendations in connection with applications for grazing, residential, garden and other rights, bee farms and sites, easements on forest property, and similar applications.

(c) Control of agistment in forest areas."

And in regard to all these matters reports are continually being required to be submitted?—Yes.

And you deal with the general policing of the Forests Act and the institution of local proceedings?—Yes, I understand so.

Under the heading of Forest Offences, the duties are defined as:

"(a) Prevention and detection of trespass, illegal cutting and removal of forest produce, illegal fire lighting and other offences.

(b) Institution and conduct of legal proceedings with respect to offences against the provisions of the Forests Acts and Regulations."

There is a further section dealing with general public relations, which includes advice to individual applications, public authorities and school committees regarding tree planting schemes or the sale of timber. Are these part of your duties?—Yes.

There is a further paragraph dealing with reports, correspondence and accounts which states that forest officers are required to undertake the control of district correspondence and accounts, the principal items being as follows:
(a) accounts in connection with the collection of royalty;
(b) accounts in connection with expenditure incurred in forest works;
(c) operation of banking account, for payment of wages, revenue receipts, etc.,
(d) examination of licencees' books of account with regard to forest operations,
(e) remittance and reports to Head Office,
(f) payment of forest employees and, in the case of relief works, their dependants.

All these fall in the scope of the work of the forest officer?

That is so.

And under the heading of sub-district officers, it is stated that the duties of an officer in charge of a sub-district are similar, except that he is directly responsible to the officer in charge of the whole district, through whom all returns, reports, etc., must be submitted. What are the areas, or the approximate areas, that major subordinate officers have to look after within your own division? Have you worked that out?—I have before me a list of the areas. The Upper Yarra has 220,000 acres of reserve forest, and 15,000 acres of protected forest.

Nearly 250,000 acres?—Yes.

THE COMMISSIONER: If that were square territory, what would be the measurement in miles? What is the total acreage?—220,000 acres of reserve forest and 15,000 acres of protected forest, but that is scattered in among areas where there is privately owned land.

I know, but suppose that 250,000 acres was in a square block, what length would it be?

MR. SLATER: It has been worked out roughly at the Bar table at 20 miles by 20, but that is not a regular area?—No.

There are other areas?—There is 301,000 acres of privately owned land or other land.

THE COMMISSIONER: That adds to the distance to be covered?—Considerably.

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MR. SLATER: That is not under the control of one officer, is it?---

That is under the control of one chief officer, two assistants, and one forest cadet. There are four officers.

This area is better off than others?---There is intensive work there in the central division with over 70 mills scattered throughout. The country is particularly rough.

That is not as extensive an area as mentioned by Mr. Galbraith in his evidence?---That is so.

You have 70 mills in that area?---From the list I see that in the division there are 87 mills, three in the Dandenong district, 12 in the Erica district, 23 in the Neerim South district, 27 in the Niagara room district, 17 in the Upper Yarra district, and 5 in the Woods Point district.

THE COMMISSIONER: How many officers are there in that district to supervise the work?---17.

MR. SLATER: Is that a district or a division?---A division.

THE COMMISSIONER: How many of these officers are free to oversee the operations of the mills?---Well, the district officer or his assistant gets around the mills usually once a month.

How many district officers are there?---Two chief officers, three foresters, one provisional forester, four assistant foresters, and four cadet foresters and two forest overseers.

THE COMMISSIONER: That is about 15 mills per man. Have you divided it up that way? If each mill were visited once a month, and they were doing nothing else, that would involve a large amount of time, or most of the time, inspecting, counting two days for each inspection and travelling time?---In the Rubicon group you could do perhaps three mills in a day, and the same at Matlock.

MR. SLATER: Whose work would it really be to supervise the mills and carry out the duties of a forest officer in relation to these mills? Would that be the duty of the forest officer himself, or would he delegate that to one of his subordinates?---It would depend entirely on the nature of the work to be done at the mill. If it is important work, the officer usually does it himself. If he has been once there.
in a month and a minor matter creeps up at a mill, he may delegate that duty to a subordinate officer.

In regard to the number of officers in the division, I understand there are 17. That represents the permanent staff, and in addition I assume you have four men as well?—That is so—charge foremen.

You were setting out to give me the areas of the division under your control, and under the control of these various officers. I think you gave us the Upper Yarra section?—That is so.

What are the areas of the other sections?—Niagaroon, 267,525 acres of reserved forests, 133,000 of protected forests, and privately owned land 330,000 acres.

About 400,000 acres. How many officers would be sharing the duties in that section?—Four staff officers and four charge foremen.

That would be nearly 100,000 acres per man?—That is so.

What were the other sections?—The Dandenong area has 24,000 acres of reserve forest and 5,000 acres of protected forest.

How many men are there?—One forester there.

And the other sections?—At Woods Point there are 57,000 acres of reserve forest, and 243,000 acres of protected forest.

How many men are there?—One man.

That is a fairly decent area to cover?—As I pointed out, it depends on the utilization work going on in these districts. Matlock has only recently been opened up, comparatively speaking.

And other sections?—Neerim South has 127,000 acres of reserve forest and 550,000 acres of protected forest.

How many men?—Four.

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The reader is not clearly visible. However, the text reads:

Any further sections?—Erice, 166,000 acres reserved and 163,000 acres protected. There are three men there.

Any other sections?—No. I have made the total up. One officer controls 50,000 acres of reserved forest and 41,000 acres of protected forest and on an average has to traverse 184,000 acres of land owned by private people or others.

That represents the average area of land controlled by each forestry officer?—Yes, down to the rank of forest cadet.

Have you made a study of the conditions of forest control in other States or outside Australia?—Chiefly with regard to New Zealand.

Do you know the area of control there?—One man to 10,000 acres.

Do you know the position in the Prussian or American forests?—No.

Mr. S. Indon: You said that you thought there should be one body for fire control. Did you mean a Government body or would it include the Bush Fire Brigade organization?—I mentioned that there should be unified control, and that the organisation should not be split up at present.

Have you any suggestion as to how that can be brought about?—I have not considered that.

Mr. E. W. J. S.: Regarding the question of thinning the forests. That is the practice generally throughout your inspectorate?—The only thinning operations that I would say are true thinning operations are carried out in the Boroje country.

Are those witnesses correct who said that in that country a considerable amount of debris from thinning had been left among the timber unburned and had laid there for a considerable time?—Yes, is your Eriice men?—Yes.

Is he correct?—It depends on what he means by thinning. In all districts there is a certain amount of cleaning done, but I would not regard it as thinning.

I mean the cutting of growing material and the subsequent leaving of it on the floor of the forest?—Eucalypt or scrub?
All of it?--There are not many places where the cleaning operations have been carried out and much green regeneration has been removed.

With the exception of the Noojee area?--Generally speaking any eucalypt stump that is cut is dry and practically dead.

What was your practice in destroying the debris produced, whether eucalypt or scrub?--In some cases in the marginal strips around trams, roads and so forth it is dragged out to the trams or roads. Further into the stand the stuff is knocked down as flat as it can be to the ground.

The marginal strip is comparatively small?--That depends on the nature of the fire hazard. It will extend up to 4 chains in places.

What is your opinion of that practice as a fire hazard?--That work in the early stages for twelve months may increase the fire risk, but the chief object was not so much silvicultural operations as to break the bridge of inflammable material between the crown and the ground.

You would make sure that the material was wholly dead in the period during which it was rotting away?--If it was allowed to fall of its own accord it would tangle up in every direction. The object was to flatten it out. Boughs were even cut into short lengths to get them as flat on the ground as possible. In that position after the first winter they would become waterlogged.

Would you regard that as more of a hazard than when they were green?--There was not a great deal of green timber taken out. It was only dead or half dead stuff.

When you refer to cleaning operations are you referring to all the procedure of thinning?--I was not inspecting in the Noojee country, but I understand it was cleaned with the object in view that thinning work was to be undertaken.

That means the dropping of green trees?--That is so.
That does set up a form of hazard?— If they are not disposed of. The practice was only applied to Noojee.

Were they disposed of in the ash country?— Yes.

Would anyone be wrong in saying that they were not?— The scrub and stuff was not disposed of.

But the ash thinnings were?— In the case of the Noojee country they were.

Does that also apply to Rubicon?— No.

Were the thinnings left undisposed of?— The scrub and so on was knocked down, but no thinning that I would call thinning, was done. There was a cleaning operation of removing dead and dying stuff between the ground and the crown.

Was there a fair quantity of that?— In places. It varied.

That material was left on the ground?— Yes.

Was Mr. Elsley right in saying that the procedure had been discontinued?— We concentrates more on fire protection.

Was it discontinued deliberately for some reason?— I have not heard.

You do not know as officer in charge of the district?— I do.

Was it discontinued deliberately?— If the officer had more important work to do possibly he would do that instead.

I think Mr. Elsley said it was an objectionable and menacing procedure?— And had been discontinued for 18 months?— That may have been in his district.

You do not agree that it is dangerous?— Temporarily you create a greater fire risk, but after the first winter you are in a better position than if the stuff had been allowed to fall. Temporarily the fire risk is greater, but the wet stuff on the ground acts as a smother.

You are not serious when you suggest that the risk would disappear after the first year?— That would depend on how much it was flattened down. If there was a fall of snow pressing it to the ground in a normal ash forest it would be much less inflammable than if left standing. In normal ash country you can count on snow every winter.
The point of my question is whether the procedure was abandoned because of the practice being not in the interests of the forest. Mr. Elsey said it was dangerous and I should expect you, as the senior officer, to tell us something about that. — Actually, thinning has been done at Noojee, I am sure, within the last 18 months.

Has the work been discontinued? — As a general practice.
Because it was thought to be dangerous? — It has not been discontinued entirely; because it has been carried out at Noojee within the last 18 months.

Why was it not continued? —

MR. HAMBER: I do not think Mr. Kelsie is stating it fairly. The reason Mr. Elsey gave was that a conference of officers decided that the expenditure was not justified. That is different from saying that it was discontinued because it created a bigger fire menace. That is another example of straining the sense.

MR. KELSO: I pass over the personal implication. This is an extract from Mr. Elsey's evidence:

"So that time you are carrying a risk. What is your opinion, is that a reasonable and proper risk to take in the forest? — That risk is not being taken now. We are not thinning."

That answer is sufficient to justify me in asking these questions. I am not trying to throw stones at anyone.

THE COMMISSIONER: Mr. Elsey, in effect, is saying, "I do not consider it is a risk, but we will call it a risk if you like, but it is not being continued because there is not enough money." It may be that Elsey realised it was a risk, said so, and took it on the further ground that there was no money.

MR. KELSO: I think that is a reasonable interpretation and I submit that I have the right to ask the witness these questions.

THE COMMISSIONER: You can ask him with or without reference to the witness Elsey.
MR. KELSO: (To witness): Can you answer the question as to whether these operations were discontinued?— They have been carried out to a certain extent in the Neerim South district.

Have they been substantially decreased in your district?— Yes.

Why?— Chiefly for lack of money.

THE COMMISSIONER: Any other consideration?— There was a conference at which officers considered whether the work was economically justified, and whether the money could not be spent to better advantage elsewhere or on other work.

MR. KELSO: There was no suggestion of it being so dangerous that it ought to be continued?— No. I think someone did mention that, but the chief reason why it was discontinued as a general practice was that the conference considered it was not a profitable undertaking.

I suppose there is no change in the amount of money available, but you decided to spend the money differently?— The money does change considerably in view of the fact that most of it comes from unemployment relief funds.

The real reason was that the same amount of money was available, but you decided to spend it in another way?— I cannot say the same money was available. We were doing certain fire protection work in conjunction with thinning operations, and were concentrating on the one we considered the most important as the money available was definitely cut down.

When you were speaking of the disposal of heads you said that you disposed of them by burning?— Yes.

What degree of disposal by burning is effected in your district?— Do you think that it covers half the heads?— I am not strongly inclined to say that. It exceeds half.

Does that apply to Rubicon?— Yes.

If seven or eight witnesses say it was not so, are they wrong to your knowledge?— I heard some of them.

They were mostly sawmillers and men who should know?— There was only
one sawmiller as far as I know who gave evidence at Alexandra
with regard to Rubicon. His name was Cecil.

We have had evidence from a good number of witnesses, some millowners,
mill managers and timber workers. There were Sims, Callinan,
Cecil, Love, Paterson, Wright and McCashney?— McCashney is not
in the Rubicon.

He gave evidence that they had not burned heads in 14 months in the
massmate country. I want to know whether you agree that it is a
fact that their heads had not been burnt?— I have been through
the Rubicon in the last 12 months, and there were areas of
burned country close to where milling has been done. Whether
the burning was accidental or deliberate I do not know, and I
did not inquire, but I should say that well over 60 per cent.
of the heads in the forest were burned.

I have no doubt that it would look like that. If the heads were not
burned I presume it would be because you considered burning
unnecessary?— There were places in the Rubicon where I would
not allow burning. Clarke & Pearce's No. 2 mill was working
north to south, and No. 1 likewise. The first country cut out
by the No. 1 mill would be cut six years before the No. 2 mill
would reach the same dividing line. As after the mill finished
there would not be more men in there for some time, I did not
allow them to burn the heads.

Why should not those places be made safe by cutting and stacking the
heads?— I do not think they would burn much better if they
were cut and stacked. We found some of the heads on a fire
break where they had been stacked, and they were like a hay-
stack. The stuff had run off and it was bone dry inside.

If you really intended to burn safely, do you not think you would be
able to burn eucalypt cuttings by stacking them before the
dangerous period?— I do not know. Where lopping is done in
think
ash country stacking may improve the burning, but I/there is a
doubt.

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It would save the seedlings, for instance, if you did it that way, because you would have no broadcast burning?—What is the difference between broadcast burning if the seedlings are not established and other burning?—

Is it not a fact that if you stack the heads you will not destroy so large a percentage of seedlings?—The leaves are not on the ground very long before the risk disappears. You have to carry the risk for a short period. If there is no regeneration you can burn the heads.

The amount of scrub you will bring on is less than with broadcast burning?—There is no doubt that with burning you will bring scrub on.

Is it correct that you refrained from doing this for that purpose and you carry the risk?—A temporary risk.

LUNCHEON ADJOURNMENT.
MR. GOWANS: The story of your inspectorate, so far as the 1939 fires are concerned, is this: that some two million acres of lands were burnt over, including about half a million acres of reserved forest?—That is so.

Of the eighty or so mills in your district, some thirty-four were destroyed?—I am not sure of the exact figures, but it would be in that vicinity.

I am taking the figures from information supplied to me by your Department. In addition, some fifty-three lives were lost, of whom thirty-nine or forty were connected with milling operations in your inspectorate?—That is so.

That obviously concentrates a certain amount of attention upon milling operations and safety precautions in connection with those operations. In the first instance, I want to read to you part of a letter disclosed on a file that has been put in evidence, dealing with safety precautions. Document No. 300 on the file is a letter sent by the Secretary of the Forests Commission to the General Secretary of the Australian Natives Association (Letter read). The letter finishes up with this comment: "The matter of safety precautions is one that receives very considerable attention by the Commission, and its officers have very strict instructions to see that the regulations concerning the same are carried out." In your experience, is that a true and correct statement?—Well, I do not remember a definite instruction, but it is generally recognised that the safety of life and property is a vital matter and does receive the attention of the officers.

THE COMMISSIONER: The letter says that you have very strict instructions— not ordinary instructions, but very strict instructions—to see that the regulations concerning the same are carried out. Who is the signatory to that letter?
MR. COWANS: The Secretary to the Forests Commission, Mr. Strahan.
The letter that called forth that reply was dated the 28th of
February, 1936, from the General Secretary of the Australian
Natives Association. I shall read the letter and the reply.
(Letter and reply read). I shall take you over a number of matters
dealing with safety precautions.

THE COMMISSIONER: To get this matter clear, you say the contents of
that letter are not true?— No, general circulars come out to
attend to this or that matter.

You told me a few moments ago that there was no instruction, that every-
body understood he ought to take precautions— which is it?—
It comes out as a circular, but there was no definite instruction
with regard to life. It would say to attend to dug-outs, or water,
or such things.

Why did you make that first reply, saying that there were no instruc-
tions, but that you understood you should take precautions?— You
were not rushed, you thought a very long time over it?—

MR. COWANS: Perhaps I can help by referring to what this file actually
discloses. You were appointed a Divisional Inspector in July,
1935?— That is so.

Although you had been a District Officer at Taggerty for some time prior
to that?— Yes.

I propose to read certain documents, or to set out the story of certain
documents, and I shall ask for your comments later. On the 12th
of August, 1935, a month after your appointment, a circular
letter, No. 253 on the file, was sent out. (Letter read). The
next document, No. 259, is a circular letter dated the 1st of
October, 1935. (Circular letter read). The next document is No.
262, a report furnished by you, dated the 10th of October, 1935.
(Report read). The next document, No. 264, is a circular dated
the 6th of November, 1935. (Document read). Document No. 273 is
a report furnished by you on the 21st of November, 1935, setting
out certain matters and concluding with this paragraph -
(paragraph reads: In the case of those mills with motor roads .... minimum). Document No. 291 is a letter from the Secretary to the Forests Commission to witness, dated 26th of January, 1936. The mills include Clark & Pearce's No. 5 mill, the Royston Saw Milling Co., the Rubicon Lumber and Tramway Company, and the North Eastern Saw Milling Co., but it does not include any other mills in the Rubicon or Matlock area. Document No. 296 is a letter from the Secretary to the Forests Commission to witness, dated the 2nd of March, 1936. The next document is the letter from the Secretary to the Forests Commission to the General Secretary of the Australian Natives Association.

THE COMMISSIONER: What are the regulations, are they written?--

MR. GOWANS: They differ in the case of each mill. There is no regul-
ation with regard to dugouts.

THE COMMISSIONER: There are no set regulations for safety precautions or provisions?--

MR. BARBER: There are no gazetted regulations under the Act.

THE COMMISSIONER: Are there any regulations of any kind - by-laws, office rules, or anything else?--

MR. GOWANS: No regulations strictly so called.

THE COMMISSIONER: I think we may be at cross purposes; is there any code, whether ultra vires, intra vires, domestic or otherwise, in existence concerning safety provisions generally?--

MR. GOWANS: I know of no regulations strictly so called which deal with safety precautions at saw mills. I do know that Section 96 of the Forests Act 1923 provides:-

"The Governor in Council may make regulations not incon-
sistent with the provisions of this Act for all or any of the following purposes:-

(1) prescribing the form of leases licences permits
or authorities and the terms covenants and

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conditions under which such leases shall be granted
or cease and determine or such licences permits or
authorities shall be issued and cancelled or withdrawn
and the mode of applying for any such lease licence
permit or authority."

That gives power to prescribe the form of leases, and other things.

Under the Regulations, under the heading "Forests Sawmilling
Licences," Regulation 36 (m) prescribes -

"Every saw-mill lease in addition to such other exceptions,
reservations, covenants, and conditions as the nature of
the case may be deemed by the Governor in Council to re-
quire, shall contain exceptions, reservations, covenants,
or conditions to the following effect, or including or
providing for the following matters -

There is then set out a list of 34 matters which can be made the
subject of conditions, in addition to any other matter that the
Forests Commission may require. No. 13 provided -

To burn or clear up and destroy when required all waste
and debris in each block.

(16) Not to burn during the months of November, December,
January, February, or March without the authority in
writing of a Forest Officer, and taking special pre-
cautions against the possible spread of the fire.

(33) To effectively protect the leased area from fire and to
extinguish any fire that may break out within or spread
to it.

MR. BARRIER: There is one other matter that is not included in the
copy of the Regulations in the possession of Mr. Gowans. It was
the 34th provision that was gazetted on the 20th of August, 1920,
and is as follows:-

(34) To make or cause to be made around the site of the mill
a firebreak of at least two chains in width which shall
be cleared of all standing and fallen timber and other
inflammable material and shall, by pipes, races, flumes
or other effective means constructed of and supported by
non-inflammable material cause to be conveyed to the
said site such quantity of water as shall be sufficient
and readily available for fire extinguishing purposes.
THE COMMISSIONER: Those are the Regulations under the Act.

MR. GOWANS: Those are the conditions specified in the Regulations which may be inserted in sawmilling licences, in addition to any others the Commission may think fit.

THE COMMISSIONER: Is it not strange draftsmanship to include all these particulars instead of having general power?—What I originally asked was, is there any sort of code, under any pretence of authority or otherwise, which aims at the protection of lives and property on milling areas?

MR. GOWANS: The answer to that is no, except insofar as the Commission has power to include those conditions in sawmilling licences.

THE COMMISSIONER: I am referring back to the letter from the Secretary to the Forests Commission, in which he refers to regulations for safety purposes. The only regulations I have heard of so far refer to the safety of the area, the property of the Commission, and nothing else.

MR. BARBER: They partly refer to lives. Those regulations cut both ways.

THE COMMISSIONER: They may incidentally, but their main purpose is to protect the Commission's property.

MR. BARBER: I may have something to say about that, too. I am not at all sure that that is not the limit of the Commission's power.

THE COMMISSIONER: That may be, but I think you are the first one to have discovered it, so it cannot be used as an excuse, can it?

MR. GOWANS: The Act gives power to make those regulations, and the regulations give power to impose these conditions, which may be inserted in a sawmilling licence. Apparently in pursuance of what was understood to be the power, conditions with regard to dug-outs have been inserted not in the licences, but in the Letters of Allotment which, I think, is included by reference to the licence. (continued on page 2101).
MR. GOWANS: That is substantially the effect of it.

THE COMMISSIONER: You may think that I am rather dull and dogged on this point. What strikes me very forcibly is the reference to regulations in that letter of the Secretary, that they have been designed with the idea of preserving the lands. In reply to a letter from the A.M.A. suggesting that some safety should be provided for the workers and that the regulations ought to be adopted, and there are no regulations apparently, that is the point. It appears to be merely a bit of blandishment on the part of the person who wrote the letter.

MR. GOWANS: If you wrote "conditions" instead of "regulations," it would be different. If the conditions were carried out, they would not be subjected to the same criticism.

THE COMMISSIONER: But can you imagine any adult confusing any conditions in a document with general regulations?

MR. GOWANS: I can.

THE COMMISSIONER: I cannot.

MR. GOWANS: But the word "regulations" is spelt with small letters.

THE COMMISSIONER: Yes, but it is generally wrongly spelt with a large R.

MR. GOWANS: There is a document there on the file, a letter by the Secretary to the witness. That is Document 303. (Reads down to "have completed the dugouts at the respective mills"). It is dated the 1st of April, 1936. Then Document 305 is a circular letter which is addressed to various district officers, as I take it, and the name of the witness is not included, but it is a letter in somewhat the same terms, asking him to furnish information as to whether the conditions have been complied with. I should say that the letter was sent to Mr. Parling, who was in the district at the same time as the witness. Mr. Ure was also there. I am not sure whether witness mentioned Mr. Ure.

THE WITNESS: He left before I left the district.

MR. GOWANS: Then Document 307 is again a circular letter sent to the
same district officers asking them to report as early as possible. That is dated the 12th of December, 1936. Then Document 315 is a letter by the Secretary to Mr. Farling.

THE COMMISSIONER: Before you pass on, that is 1936, is it?—

MR. GOWANS: Yes, Sir. So far all the documents I have read have been between August, 1936, and December, 1936. This letter is addressed to Mr. Farling, Forester, Powellstown. (Reads letter). Document 318 is a letter to Mr. Ure, Forester, dated the 14th of January, 1937. (Reads letter). Document 321, the last document I wish to refer to, is dated the 30th of January, 1937. It is addressed to Mr. Elsey, Forester, Erica. (Reads letter). That is the last document I want to refer to on that file, which ends on the 11th of February, 1937. I have not any general information since that date so far as this file is concerned. Having regard to that, what has been read, Mr. Gerraty, it is obvious that the Commission regarded as matters of first-rate importance?— Yes, I quite agree with that.

You do agree with that, do you?— Yes.

And All of these letters, with the exception of the X.X.X.X.A.X.X.X. one, found their way over to you or district officers?— All these addressed to me I definitely got.

What about letters to your district officers, like Ure or Elsey?— Would you get copies of these?— I would not be sure of that.

I thought Mr. Code told us yesterday that he got all copies of letters sent to the district officers?— I would not say. Since the present Secretary has been there, they would all get these letters, but prior to that we did not get any letters that were forwarded to district officers.

I understand that the Secretary has since retired from the Commission, and that fairly recently?— Yes, somewhere about 12 or 18 months ago.

Supposing a mill owner refuses entirely to put in a dugout, would any steps be taken to see that he did it — that he was compelled to

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do so?— where it was considered necessary for the safety of the action men, the right measures would be taken. The miller would be first of all threatened that his licence would be suspended or cancelled. Having regard to that answer, will you just listen to this?— I refer to document 322 which is the report of Mr. Elsey to the last document which I read out, and he says this, in a report dated the 11th of February, 1937. (Reads report). That report would go to the Head Office, would it not?— I should say so, unless it bears my signature on the bottom of it, it would go direct.

Well, it appears not to do so. I want to get at this system. What steps would be taken when that report was received?— I could not say. It is quite possible that Mr. Ingram might have called at the Commission personally and have explained his views on the matter, and it may have been settled there.

There is no doubt about this: there was no dugout at Ingram's mill?— I understand not.

And Ingram's mill was in fact burnt out?— Yes.

Are you in this position, that you cannot tell us why no action was taken in regard to that letter?— I cannot say.

THE COMMISSIONER: Did you hear anything further?— No, I did not actually see that letter, if it is not bearing my signature.

Whose letter is it?— It is Elsey's, the district officer, to the Secretary, I understand.

Would it not notify you what was being done?— Not always, I am not always at home. Any urgent matter would be sent straight to Melbourne.

But it is an ordinary letter. It is not a matter of ringing up. Do you not know what the men are doing at the head office?— At that time one of your superintendents might have addressed the head office and you would not know what was happening perhaps?— That is so.

MR. GOWANS: Would you not be responsible for any acts of your district officers, as Mr. Code said he was?— As near as possible we tried
to take on all matters in the district.

Having regard to the correspondence that I read out, would not you think it your duty to see that these conditions or regulations were actually enforced?— Well, if I did not have a copy of the conditions sent to me, I would not know what the condition was. Ingram's mill was put in, I understand, before the dugout question originated, and it would therefore be an alteration to the original conditions of allotment.

THE COMMISSIONER: How long does the letter of allotment last as a rule?— Until the particular area is run out. The actual cutting licence may be for one month or three months. It is usually three months.

If there is any condition that you want to enforce on the allotment, you can do it through their licence?— Yes, by the licence. You could just close down on the licence, is that it?— Yes, we could close the licence if a condition was not being complied with.

MR. GOWANS: Do you know if Ingram has changed his cutting area in the last five years?— No, I have been acquainted with that district only since I have been inspecting. He has changed his area that he is logging into the mill from, but I think it is the original area. I am not sure of that, though.

Do you know of any instructions to your district officer, that where there were conditions in licences with regard to the installation of dugouts, they were to be complied with and enforced?— Where they considered that they were reasonable and should be complied with, they were to enforce them.

Do you remember any instructions being given to that effect?— Yes, I did in the case of those mills of Finkman's, and a second mill that Anderson built in the Niagara-on-the-Lake district.

Do you remember doing it in the Erie district?— No, they were mostly old established mills in the Erie district when I went there, and I inquired if the dugout question could be brought up or was not complied with according to the requirements of the mill.
Do you agree with this statement of Mr. Elsey at page 1090 of the transcript—(Reads, "I have not received any instructions to enforce it")?— No one as far as I know, but the millers have been urged to construct dugouts.

You do not suggest that the whole purport of these letters is to urge them, and not to see that the conditions are strictly complied with?— Well, the question of compelling a miller to construct a dugout has been a debatable question amongst officers. Various officers have various opinions of it. But we usually would put a reasonable request to a miller and would urge that a matter like that should be complied with, but we do strike those of a type engaged by Mr. Ingram.

THE COMMISSIONER: If they won't comply, what happens?— If you go on urging and saying that they ought to do it, do you refer it to the Commission, or what happens to it?— Well, that was referred to the Commissioner. I have not had any case where I have urged a miller to construct dugouts and it has not been complied with.

Do I understand you to say that where you thought conditions were reasonable, you took it up with the miller?— Can you inform me about that, Mr. Gowans?—

MR. GOWANS: I think it was something to that effect?— Necessarily, Your Honor, we would consider if it were necessary.

THE COMMISSIONER: But if that condition was already attached to the licence or the letter of allotment, surely you have no discretion in the matter, have you?— No.

Do you mean to say that where there is a condition in a licence or in a letter of allotment, you decided whether it was reasonable or not before you tried to enforce it?— In connection with a dugout? Any condition at all?— If a definite condition, then I would say that it was definitely the district officer's job to see that it was complied with.

If it is a matter of merely a request—a direction to you, or a
request from the Commission to the miller, you urge it?— We urge
them to do so.

I do not know whether you are officers or urgers?— Did you ever get
the legal position cleared up?— Did you ever put it to the
Commissioner that you would take the legal position—the Crown ad-
vice—free as to whether you were entitled to?— Has that position
ever been suggested to anybody?— I cannot say that it has to me.

When you get that answer, it makes one wonder whether there was any
doubt about it to you—any doubt about the case, because every
department I know goes to the Crown Solicitor every day—every day
they are consulting him about all sorts of things, free of charge.

Did the field officers ever put any difficulty that arose—any
legal difficulty—did they say that they were in difficulties as
regarded their legal position?— It was not said in that letter
that the millers were urged to construct dugouts.

MR. GOWANES: But I put it to you that the officers were asked to see that
the conditions were strictly complied with; and that they had
written to you again and again to see that they were complied with?—
One of the original letters was a request to the millers to see
that it was done.

THE COMMISSIONER: Apparently when you were receiving these letters you
did not get into touch with the Commissioners to see whether there
was any doubt about the legal position?— But I understand that
the millers had taken up their mills prior to the dugout question
arising. The legal point had been brought up then. Certain of the
millers had been operating for 30 years under certain conditions,
and the legal point whether we could change these conditions has
been definitely brought up by officers.

MR. GOWANES: I quite understand the legal difficulty with regard to
these mills. What legal difficulty was there with regard to
the mills which had been established since 1930, and whose letters
of allotment contained a specific condition that he has to put in

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a dugout - have you ever heard any legal difficulty about that?--
Only that there is no regulation definitely, only a condition of
allotment.

Do you say that because it was a condition of a licence, it could not be
enforced?--

THE COMMISSIONER: I do not see where you get your doubt from. Would
not it occur to you that, if you let a contract to a man on the
condition that he assents to the letting of that contract, and he
does assent to it, because he accepts that condition, does not it
then occur to you that you are in a position then to enforce it?
Why would you have any doubt about it? You have the legal position.
We will get to your understanding of it. If you make a bargain
with a man, and part of the bargain is a condition, do you not think
that you can force that condition?-- Yes.

Well, your legal doubt never arose when you had a condition incorporated
in the letter of allotment.

MR. GOWANS: Can there be any doubt about this - that where you have a
miller operating in a forest reserve, where you have his licence
or letter of allotment containing a condition that a dugout should
be installed, that it was the duty of the forester or district
officer to see that that condition was complied with? Legal doubt
or no legal doubt?-- It would be the duty of the officer to see
that it was complied with.

THE COMMISSIONER: Would you know of that condition?-- In the allotment,
would I know?

Yes?-- Yes, I would know of these allotments.

I mean in the past?-- No, it is only within the last 12 months that I
have been particularly requesting that all allotments in my district
should be forwarded to me.

But how are you to enforce any conditions if you do not know what they
were, or whether were never advised?-- The only opportunity I had
was on going to a district to ask the district officer and ascer-
tain when a new mill was going to be put in, and for him to see
that the conditions were enforced.
MR. GOWANS: I want to ask you with regard to one specific instance, and see what you know about these circumstances. Taking first of all Yelland's mill at Matlock, I realise that you were appointed Divisional Inspector in July 1935. On the 12th of November, 1935, a Document No. 2, in file No. 33278 which I put in, shows that the conditions of allotments in the case of Yelland's mill were set out, and provided that a suitable and effective dugout be constructed at or near the vicinity of the mill site.

(Continued on page 2111)
MR. GOWANS: According to Document No. 13 on the 10th of July, 1936, on the same file you furnished a report to the Secretary of the Forests Commission in these terms:

"Dear Sir,

In accordance with your instructions of 25th ult., I visited and inspected Messrs. Yelland Bros. mill and area at Matlock on 3rd inst. and wish to report as follows:-

Generally speaking I consider the work carried out so far most unsatisfactory. This applies to selection of site for mill and also manner mill has been erected and is being worked. The mill has been erected down in a hollow partly on made up ground and as logging is being carried out by winches and outlet of timber by road transport, I consider the mill should have been placed on higher ground, as this would not affect the winches, but would definitely improve timber haulage by road. The mill is not yet completed, there being only one rip bench, although a bandsaw is being erected. However, the timber is not of sufficient size to utilise same to advantage, and a No. 2 rip or good mosquito bench would have been more serviceable. Instead of logs entering the mill from a log yard on a higher level than the mill, and working the timber as it is handled to the successive benches, to lower levels, and taking advantage of gravity, this has been reversed and logs enter the mill on the lower side. I saw very little small size timber cut or being cut, and consider that until a No. 2 rip bench is erected the cutting of smalls will be avoided as much as possible," and so on.

That contains no reference to the question of dugouts, although at that time, you will agree, no dugouts had been constructed there?--I do not think so.

Although you must have made an inspection, do you remember whether you noticed that fact?--I am not sure. I had a copy of the conditions
of this allotment at that time. I might have been instructed to
go up there for the specific purpose of seeing how the operation
had been carried out.

Then the next document I want to refer to is Document No. 21 on the same
file, dated the 19th February, 1937. This is a report by Mr. A.
Westman, District Officer, Wood's Point. He was District Officer
at that time?— He was at that time.

He writes as follows:

"In reply to your request of the 4th instant for my report on
progress made by Yelland Bros. Pty. Ltd., I have to advise that, at
present the mill is not cutting 5,000 super feet per day, but pro-
duction should reach that figure when better logs from other parts
of the area are being used. Sawdust is being satisfactorily dis-
posed of, and a water supply for fire protection purposes is avail-
able at the mill. The 2 chain firebreak around the mill, the dug-
out accommodation, and the fire holes for waste are not yet satis-
factorily completed, but the mill has been cutting for more than
12 months, timber being despatched to Melbourne for seasoning."

Would you get a copy of that?— It would be passed to me for initialing.

Then Document No. 22 on the same file, dated the 1st March, is a letter
to the Director, Yelland Bros.; informing them that reports indicate
that Conditions (3), (4), and (5) have not been fully complied with.
The letter also states, "Before taking any further action in the
matter, it is desired to know what steps you are taking or are pre-
pared to take to immediately fully comply with these particular
conditions." Your Honor will remember that Condition (4) of the
allotment was the one referring to the dugout. I wish now to refer
to Document No. 24 on the same file, which is a reply by Yelland
Bros., pointing out that Conditions (3) and (4) had been attended
to, but that condition (5) "Where edgings to be burnt in a fire

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hole 8 ft. deep is an actual impossibility." I will read the letter. (Letter No. 24 read). And then there is a letter from the Secretary of the Forests Commission to Mr. Gerraty, witness, Document No. 25, dated 6th April, 1937, which simply refers to condition (5), and asks witness, when next in the locality to "please investigate and report." Document No. 26, on the same file, is a further letter to the witness calling attention to the communication of 6th April regarding Condition 5 in the provisional allotment to Yelland Bros. at Matlock, and asking what he has done in the matter. According to the letter of Messrs. Yelland Bros., condition (5) in connection with dugouts had been attended to.

TO WITNESS: When you reported, pursuant to this last communication, did you have a look at the dugout?— I would not call the dugout then a satisfactory dugout.

Did you see it?— I have seen it. I cannot say when it was that I went up to report on the edgings.

Did you see it subsequent to or before the fire?— Yes, on one occasion before the fire.

If you did not then regard it as satisfactory, why were some steps not taken about it?— When I was there it was winter time with snow on top of it, and I could not see very well what it was like.

THE COMMISSIONER: How deep was the snow?— Up to 2 feet. We were pushing ————

the snow was 2 ft. deep it would be perfectly visible for a hundred yards or so. I have inspected it myself. It is a shocking contraption. Thank goodness people did not go into it for a refuge from the fire. They had too much sense. The face of the cliff was the back wall, there were two sides and a roof of galvanised iron, the whole 9 ft. x 7 ft., by about 7 ft. high. It stuck out. You would not miss seeing it if you wanted to see it. A bit of snow would not in any way disguise it. There were trees all
around, and if people had been foolish enough to go in there during the fire, and if trees had fallen across the mouth, the people would have been roasted - they would have been brought to the cooking point there much more quickly than anywhere else. It is no use saying you could not see it because the snow was there. That is ridiculous. There was dirt on top of it.

Suppose there was some dirt mm over the top, would it last for ever?

Would you pass that?— One would not know the depth.

You know it had a galvanised iron roof?— Yes, with dirt on top of it.

You would be satisfied with that structure?— No.

It had exposed galvanised iron sides - suppose it was covered on the roof, would you assume that the weather would let it remain there for ever?— I do not say it was satisfactory at the time I saw it.

You could not see it for the snow, or did you not see it, or what was the reason?— On that occasion when we were there we could not see what attempt they had made to cover up the place with dirt on the other side. It was covered in.

I presume from that remark you were not interested. You could lay the whole structure bare with a spade in two minutes, if there was only two feet of snow on it. In fact, the walls must have been bare and visible even with two feet of snow?— (No answer).

MR. GOWANS: Is there any explanation for the absence of action in this connection, other than negligence on the part of some person associated with the Forests Commission?— What was the reason for the delay in dealing with that dugout and the failure to put it right?— In the Matlock area the mills have been operating for, perhaps, two or three years. Two of the mills might have been operating for three years. They are idle for a period during the winter, usually, and not one of them that I saw was completely constructed. There were alterations going on all the time.
The letter of allotment was issued in November, 1935, the dugout according to the report was, in fact, put in by March, 1937, and in January, 1939, it was still, according to one witness, a death trap. Is there any explanation of that to exonerate the officers of the Forests Commission?— Generally speaking, everybody considered the Matlock country was safe country, and that there was no need for dugouts in that locality.

I do not want to take up too severely on that, Mr. Gerraty, but where the Commission has thought fit to insert a condition in its letter of allotment, do you think it is a fair answer to say some four years afterwards that nobody thought that the dugout would ever have to be used?— Have you not read what the Commission had been saying in the file I have read to you?— In connection with the Matlock country I still say I thought definitely that it would not burn as it did burn.

THE COMMISSIONER: That is what I put to you a few minutes ago— that if you thought a condition was unreasonable you would not bother about it, or that any condition which imposed unreasonable requirements in your mind— although imposed by the Commission which attached some importance to them— would be ignored by you?—

(No answer).

Is that it?— Not necessarily by me.

By officers generally?— Yes.

I do not want you to rush into it— do not say "yes" if you do not mean that?— That matter was brought before the Commission, that the position was not satisfactory.

MR. GOWANS: That matter was brought before the Commission by Mr. A. Weetman, before the dugout was put in, pointing out that the work had not been done. Subsequently a letter was sent by Yelland Bros.
to the effect that they had complied with Condition (4) and subse-
sequently you were on the spot, and I accept your explanation
that you did not examine it. It cannot be in answer to say that
Weetman reported that the dugout was unsatisfactory when, in fact,
all he reported was that the dugout had not been put in?— I
understood that Weetman reported on the way they were putting the
dugout in.

Weetman reported that they had not complied with the condition?— I
am sorry, I misunderstood the position.

Admittedly the only explanation is that somebody up there in the employ
of the Forests Commission knew that that condition had not been
complied with, and decided not to enforce that condition because
he substituted his own opinion for that of the Forests Commission
itself. That seems to be the only explanation. Now I will take
you to another area, with, unfortunately, rather more severe con-
sequences, insofar as fire damage was concerned. I refer to the
Fitzpatrick sawmills. I do not think that the file in regard to
this matter has been put in. The file is No. 38/311 and deals
with sawmills at Wood's Point, with particular reference to the
boundary adjustments of cutting area allotted to J.M. & C.
Fitzpatrick at Matlock. This file discloses that prior to May,
1936, the Forests Commission thought fit to take the opinion of the
Crown Solicitor on the question as to whether, in the event of the
Commission imposing a condition specifying a dugout, and the manner
in which it should be constructed, that circumstances would involve
liability to the Forests Commission, and the opinion is on the file
to the effect that there would be no liability on the Forests
Commission. I draw Your Honor's attention to the question raised
as to the legality of such condition.

THE COMMISSIONER: I think that that explanation is now seen in its
true light. I do not think you need elaborate it.
Mr. Gowans: Then, Sir, on the 31st May, 1936 — Document No. 74 — a letter of allotment was issued to these millers, and one of the conditions was that a dugout should be erected. That letter of allotment was acknowledged by the mill owners and accepted by them, by letter. On February 4th, 1937 — Document No. 81 — a letter was sent from the Secretary of the Forests Commission to Mr. Weetman at Wood's Point, District Officer, asking him to report if the conditions had been fully complied with. On February 19th, 1937, Mr. Weetman replied that the dugout had not yet been completed.

The Commissioner: Who was Mr. Weetman — the young man who gave evidence in the tent?— No. He was District Officer prior to the fire.

Mr. Gowans: On the 1st of March, 1937, a letter was sent from the Secretary, Forests Commission to Messrs. J.M. & C. Fitzpatrick — Document 86 — informing them that Conditions (4) and (6) of the allotment had not been fully complied with, and asking what steps they proposed taking to comply with the conditions. (Letter read). (Document No. 86). The next document, No. 87, is dated 22nd March, 1937, asking Fitzpatrick to reply to the former communication. (Letter No. 87 read). The next document on the file is No. 88, from Mr. Weetman, Assistant Forester, Wood's Point, reporting, inter alia, that "milling operations have now been commenced." Document No. 90 is a communication dated 27th March, 1937, from Mr. J. M. Fitzpatrick to the Secretary of the Commission, indicating that he was endeavoring to comply with conditions (4) and (6), and he says, "We are finding it very hard to comply with these conditions as our water supply is not a reliable one as the spring has dried down till we cannot get enough water to run the mill. We have taken up and put in position a 6,000 gallon tank which, when we get it full, will safeguard all concerned. The dugout we are putting in will be as close to the water tank as possible. I explained to your Forest Officer what I was doing." Nothing further is mentioned about the dugout, and on February 22nd, 1938, nearly a
later, the witness, Mr. Gerraty, reports as to the sawmilling operations at Matlock, and brings under notice the method of sawdust disposal, the need for a mosquito bench and the excessive long butting practised. The letter is as follows. (Document No. 104 read). A copy of this letter was sent to the Commission. There is no mention of dugouts there. Now, Mr. Gerraty, obviously you had been to Matlock and you had inspected that area of Fitzpatrick's?--

When I prepared that xx report?--

Yes?-- Yes.

You must have known that there was no dugout there then?-- Yes, I did.

That was last year. Everyone knows it was not there this year and that 15 people were burnt to death at that mill. What is the explanation which is not inconsistent with some dereliction of duty on the part of an officer of the Forests Commission?-- I did not see Fitzpatrick Senior. I saw Cecil Fitzpatrick, I think it was, one of the sons. Fitzpatrick Senior was not usually there. When I mentioned this matter of dugouts he referred me to a large quarry a short distance from the mill which, he said, would be a better fire retreat than a dugout that could be prepared in that type of country.

Would that mean that although this condition had been specially inserted in the letter of allotment, and subsequent reports had been asked for as to the compliance of this condition, that you decided that it was not necessary to comply with it?-- No. He pointed this out to me. I made no report on the matter.

You made no report, and apparently I take it he assumed that your consent to the absence of the dugout was sufficient?-- I would not say that I consented to that, but he referred me to this large quarry there, which had been used for taking out shale.
THE COMMISSIONER: Was that quarry in existence when the letter of allotment was issued?-- I do not think it would be - it may have been - but I cannot say exactly.

MR. GOWANS: We may take it that you did not say anything to him to the effect that in spite of that, the condition had to be complied with, or some relief obtained from the Forests Commission?-- No, I did not say anything.

Would it have been the duty of the District Officer to have seen that that condition was complied with?-- The District Officer gets a copy of these conditions.

And it is his duty to see that these conditions are complied with?-- That is confirmed by Seetman's report in connection with Yelland.

THE COMMISSIONER: Whose responsibility is it to check the royalty payment by the millers, the inspector or the District Officer?-- The district officer.

MR. GOWANS: I want to leave the question of dugouts, and take you to other places. Take the question of clearing around mill sites. We have heard that there are conditions imposed in mill site licences requiring the clearing of two chains around mill sites. What is your experience about that?-- Is that strictly complied with?-- Yes, I know of no occasion where that has not been complied with.

THE COMMISSIONER: What about Fitzpatrick's mill?-- Yes, there was at least two chains around Fitzpatrick's mill. Do you mean all the buildings and houses grouped around the mill?-- No, they usually put houses on that clearing.

So that the houses are right up against the bush - there is no clearing beyond the houses?-- In some cases, but they usually place the houses on the clearing.

I am talking about Fitzpatrick's mill - trees were growing right up to the cottage, were they not?-- I cannot say exactly.

I can, for I have seen them. (To Mr. Gowans): Was the clearing
supposed to be around the mill, or the mill settlement?

MR. GOWANS: Around the mill site.

THE COMMISSIONER (to witness): Do you know that they started to clear on the morning of the day they were burnt out? --- I have heard that.

Mr. GOWANS: Would you say that that was complied with in the case of Bromfield & Gormans at Buxton? --- The new mill?

Yes, the one up there now? --- I cannot say.

You would not like to invite His Honor to go and have a look at that? --- I cannot say.

Do you have much difficulty in getting millers to comply with that condition regarding clearing areas around mill sites? --- With regard to clearing in general, not generally.

In regard to that matter, this is an extract from a report by Mr. Elsey, Forester at Erica, document 322: "Generally speaking it is surprising the number of times we must approach millers to endeavour to have them clean around their mills etc" (Document read)? --- We have approached them for years in connection with scrub.

That statement means more than that. On a number of times they have been approached to clear around the mill? --- Once the timber is cut around a clearing it is only the scrub that would grow to any extent.

THE COMMISSIONER: All these operations are a dead loss to the millers, burning tops, clearing, etc? --- Yes.

Do you mean to say that you have not had to persuade them to undergo that loss? --- The miller has a concentrated asset there and he takes action to safeguard it.

We can see how they protected it during the last fire. That argument will not work.

MR. GOWANS: Take another matter; the water supply. Have you had any difficulty in regard to conditions in that connection being enforced? --- Yes.

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Did you hear anything about Horner & Monett in January of this year?

---No, I have not been up there.

Getting away from the mills, you were present at Alexandra and you heard the evidence given by Messrs. Simmons and Ure to the effect that Mr. Simmons relied on Mr. Ure to carry out this work?--- That is so.

Mr. Simmons relied on Mr. Ure doing this work of his own accord.

Can you explain why the system broke down?--- I think there was some misunderstanding in connection with that. Simmons commenced operations in the Rubicon when I was in charge of that district, and definitely he had instructions to carry out certain conditions. That was regular maintenance work, which was practised throughout the Rubicon reserve, attendance at mills to see that the various conditions were complied with, as well as tops disposal. I have, about that time, sent officers over from Taggerty to assist the burning of tops in that area.

Would that mean that Simmons was not telling the truth, or that he was making a mistake? ..... I think he made a mistake.

(Continued on page 2121).
Do you lend him a team of men or supervise the burn?— We may send two or three men over to do the burning. We have done that in one case in connection with Cecil & Brown's area.

Do you find generally that you have to watch the way they burn?—- That is so.

That again is a question of expenditure?—- Yes.

Mr. GOWANS: What is wrong with this evidence (passage from 895 of transcript of evidence read)?—- I cannot speak of what happens between Ure and Simmons, but definitely Simmons had instructions and carried them out when I was in charge of the district.

And also the officer in charge?—- Each year I went through the Rubicon country up the Royston and Blue Range country. At the number three mill the heads had been burnt, and at No. 2 and No. 1, they had been burnt. I was at the No. 4 mill this year. No 5 has not operated for a number of months. The heads there had been burnt as late as November when I was through the country. They were burnt not long prior to that, I should say. No. 3 heads were burnt this year. That was on top of the Royston range. I cannot answer for the Rubicon Lumber Company.

Mr. Ure said, that not only was he relying on Simmons to take the responsibility, but that although he had known it was the practice once to send written notices to mill owners, he had not sent them himself. Did you know of that?—- No, it was a matter between the district officer and the millers concerned. I know I sent notices. That was admitted in evidence at Alexandra.

Do you remember giving him instructions to this effect or anything like it (extract read from page 607 of the transcript of evidence)? —- That any burning that was to be done was to be done with due regard to regeneration?

That as little burning was to be done as possible in order to save the young trees?—- No. The instruction that I have given him, and I think all other officers too, was that any burning
they had to do was to be properly controlled and confined to the piece they wanted to burn, with due regard to the safety of the surrounding forest, which was not to be endangered.

Do you know when the conference of officers regarding thinning which has been referred to took place?—— I should say about 1936 or 1937.

Where did they usually take place?—— Usually in Melbourne, but sometimes in a division as at Yarra Junction.

Mr. Elsey suggested that thinning had been abandoned for the 18 months. Would that help your recollection?—— I should say it was in 1936—or 1937.

Have you any clear recollection of the conference at which the decision was arrived at?—— I attended the conference.

Do you keep any minutes of any such conferences?—— There would be an official record.

MR. GOWANS: Can I ask Mr. Barber if it is possible to find it?
MR. BARBER: I suppose it is.

MR. GOWANS: Do you know/any sawmillers' licences ever having been cancelled for breach of any of the conditions with regard to safety precautions?—— No.

In your division there is a very large area of Crown lands most of which is in a pretty dirty condition?—— Large areas are dirty.

The area in which the big fire started at Kinglake was in the vicinity of fairly large areas of Crown lands?—— I have not been in that country, and I am not sure that the fire did not start in my division. I am not sure where the fire originated but it was near Kinglake.

A very short time after it started, it would burn into your division?—— Yes, with a westerly wind.

And through those Crown lands?—— Yes.

Have any of these fire protection measures been carried out on Crown lands?—— Some of them have.

Has there been any legal obstacle there as far as you knew before this Commission started, in the carrying out of fire protection
measures on Crown lands?— No, because where those measures are taken I do not think the country is leased or used for grazing. That is the only obstacle.

Has that legal difficulty, which has been spoken of so much, been confined to those cases where Crown lands have in fact been leased?— I do not know all the Crown land that is leased, but where this work has been carried out, it was not leased country.

You have heard of a legal difficulty about carrying out fire protection measures on Crown land?— Yes.

Before this Commission started?— Yes, definitely.

THE COMMISSIONER: When did you first hear of a legal difficulty?— Some years ago at a conference, I cannot say exactly when.

MR. GOWANS: Can you help us as to the source of the information?— I cannot.

Can you tell us whether the difficulty was only in relation to Crown lands that were leased?— For Crown land generally, not from a legal point of view, but from the point of view of doing work on it.

THE COMMISSIONER: Of having it alienated?— Yes.

MR. GOWANS: That was the only difficulty you knew of?

THE COMMISSIONER: The economic difficulty?— That is the position.

We did not devote enough money to it.

I understand it thoroughly, but it seems wrong that you should tell me that you are acting under the belief that there is some legal impediment to doing it, and having started by saying that, you modify it later and give really what is the true answer.

MR. BARBER: I do not think that charge can be levelled at Mr. Gerraty, Your Honor.

THE COMMISSIONER: He started off by answering the question with "yes".

I think Mr. Gowans led him into it, but he should not be led into these things when he is giving evidence, if he does not mean to say them.

MR. GOWANS: He may not have appreciated that I was emphasising the
MR. BARBER: The distinction between a legal difficulty and a difficulty of fact may not be apparent to such witnesses.

THE COMMISSIONER: Most of them do not know what a legal difficulty is, and when cross-examined further after having said that it was due to a legal difficulty, they say that what stopped them was a practical economic difficulty.

MR. BARBER: When I came to read the Act, I saw what I thought was a legal difficulty, and as I understand it, that legal difficulty has always been in the mind of those in charge of the head office. I agree that the legal difficulty here was that it was considered wrong and foolish to spend the money on land that could be alienated from them at any time. I think that is the explanation.

THE COMMISSIONER: We are in entire agreement.

MR. BARBER: That is the explanation as to why what I regard as a strictly legal difficulty was never explored or investigated—because it never became a matter of practical politics.

THE COMMISSIONER: We are almost in heated agreement.

Mr. BARBER: From Your Honor’s remarks, I thought we were poles apart.

THE COMMISSIONER: We agree entirely, but I do not like witnesses tossing in reasons that are not true ones.

MR. GOWANS: I am ready to concede that the witness is not a lawyer, but one witness yesterday was prepared to burn himself into a lawyer and explain the cause of the legal difficulty. (To witness) You have very large areas under the control of the Board of Works abutting on certain areas in your division?—That is so.

Do you know of any co-ordination being attempted between you and the Board of Works in regard to pre-suppression measures?—In the way of break construction?

All that sort of thing?—Immediately north of the Watts River catchment, the Commission have introduced a roadbuilding scheme. I do not know that the Metropolitan Board of Works have contributed in any way to that.
Have you ever known of the two departments putting their heads together to carry out pre-suppression measures where their districts abutt?— As far as the Commission and the Board in Melbourne are concerned, no, but district officers and officers of the Metropolitan Board of Works co-operate in the field.

In pre-suppression measures?— Chiefly suppression.

MR. KELSO: Do you know of fire breaks that are constructed and maintained mutually by the two bodies?— No. The only break I know of the Board is the one in the Watts country.

Do you know one south of the Watts?— I know there was a break but when I was there last Sunday, I could not find much of it.

Did you take anyone with you who knows where it is?— I know the location of it, but I could not find much of a break.

Do you know that break was constructed by both parties?— I understand so. It was before I was an inspector.

Do you know that Donna Buang tower is used by both parties by direct arrangement?— I understand that is so. I have not the details. My information is that in Powelltown district the Commission stands the cost of tower.

Do you know that big fire breaks on the north and north-west of the Wallaby Creek area are also mutually constructed?— No, they are outside my division.

Do you know that when fire breaks out in the vicinity of either area the officers of both parties inform each other?— I have only heard rumours of that.

MR. BARBER: Is it right to say that millers, mill employees, forest officers and everybody in the Matlock district never expected the country to burn?— That is the general impression I have. It is my own personal view. I did not think the country would ever burn like it did.

Was that the view taken by the millers and their employees in regard to dugouts— that they were not necessary?— By some of them.

THE COMMISSIONER: How does the view of the mill employees concerning
a condition attached to the letter of allotment become relevant?

MR. BARBER: It does not become relevant, but I suggest that the background is relevant, when you consider the enforcement of the letter of allotment. There was nobody with any real desire to enforce it.

THE COMMISSIONER: Those people have to be protected.

MR. BARBER: With great respect, that is a matter I shall have to deal with at a later stage. They may have to be protected by somebody, and there are some authorities that ought to protect them, but there is nothing in the Forests Act that defines the powers of the Forests Commission or that makes us responsible for the safety of human lives.

THE COMMISSIONER: Except that you did assume the responsibility, and should have carried it out.

MR. BARBER: We went out of our way to assume a humanitarian responsibility.

THE COMMISSIONER: You must treat the people here as not having any great judgment on these matters. They are the type of person who has to be protected. Their views do not help us much.

MR. BARBER: (to Witness): The mills at Matlock are actually situated on Crown lands? - - That is so.

And the licences are issued by the Lands Department? - - That is so.

Are you familiar with the site licences of the Lands Department sufficiently to say that the conditions impose by them are not the same as the conditions imposed by the Forests Commission? - - They vary. A particular clause that they vary in is in regard to sawdust disposal.

The Lands Department being wise in their day and generation took no action about dugout. The rental of course is collect by the Lands Department? - - I take it it is.

MR. BARBER: I want to refer again to some of the documents read, particularly Document 185 on the dugout file. It shows quite clearly the attitude the Commission took in regard to regulations and dugouts. It is a letter sent to all millers.
THE COMMISSIONER: What is the date?

MR. BARBER: October, 1934.

MR. GOWANS: Does it indicate whether it was sent to mills established after 1930 or not—

MR. BARBER: It does not say. There are two letters, A. & B. A was sent to mills that had not carried out some of the regulations, but had carried out the regulation relating to dugouts, and B was sent to those that had not carried out the dugout provision. There is also the other Document No. 300 that was read and on which Your Honor passed some strictures with regard to the use by Mr. Strom of the expression "regulations." (Letter read). The writer of the letter, I submit, used the word "regulation" correctly, both as a matter of law and of English usage.

THE COMMISSIONER: A lawyer might read it in that way. The concluding paragraph, however, looks as if the whole thing was dealt with by regulation.

MR. BARBER: The point I make is that the concluding paragraph means nothing of the sort if read by a lawyer or anyone else.

THE COMMISSIONER: Not by you or me, perhaps, but an ordinary person reading that document might would think that there were strict regulations and everyone was being forced to obey them.

MR. BARBER: The construction of a document is always a matter of opinion, I suppose. Your Honor originally did consider, when you read the document, that as a matter of plain English it referred distinctly to separate matters.

THE COMMISSIONER: You can read it with the exx rules of statutory construction in your mind, and can see that the word "regulation" having been used once before can only be applied to the thing to which it has previously been applied. If you read the last paragraph, it looks as if safety precautions are the subject of regulations, unless you apply that rule of construction which the ordinary lay recipient of a letter does not do.
MR. BARBER: Your Honor made some stricture about him having the mind of a child of 12.

THE COMMISSIONER: I did not say anything of the sort. The thought must have occurred to your mind, and you attributed it to me.

(CONTINUED ON PAGE 2129).
MR. BARBER: Your Honor certainly suggested it was the improper use of the word "regulations."

THE COMMISSIONER: I do not think I said anything about mental ages.

MR. BARBER: The letter was written by a gentleman who retired from the service some time ago. I do not think it will affect the subject matter of this inquiry very vitally, but I desire to point out that, even if I am making a legalistic use of the word, he has used it as good strict English, and a correct expression.

THE COMMISSIONER: And it is as misleading as strict English can be to the person not practised in it.

MR. GOWANS: (To Witness): I suppose you are not familiar with the practice that takes place when licences to cut on forest areas are granted by the Forests Commission, to show that the mill has to be installed on a site on Crown lands. That goes on between the Central Office of the Forests Commission and the Lands Department, does it not?— In connection with determining the site or location?

No, not merely determining the grant of site licence by the Lands Department?— It is not dealt with by a District Officer, and a Divisional Inspector does not handle that matter.

On File No. 39/279, Your Honor will find reference to Yelland’s. That apparently is a communication sent by the Forests Commission to the Lands Department intimating that saw milling rights have been granted, and asking the Lands Department to take up the matter. Letters are then passing between two Departments with regard to the issuing of licences. I do not say there is collaboration about what the conditions are to be, but there is some collaboration between the parties.

MR. SLATER: You said that up to eighteen months ago you did not see the Letters of Allotment?— It may not have been that long ago. It is more recent than that, when I was particularly asked in connection with a certain allotment in Tanjil. I received copies of that allotment, but it would be less than eighteen months ago.
Were you then familiar with the conditions that appear on these Letters of Allotment?— In the case of the Matlock country?

Yes?— No, I have only been able to get hold of those allotments comparatively recently.

Do you know if the conditions on the letters of allotment vary?— Yes, they do vary on some of the letters of allotment I have received.

Until a comparatively recent date, is it not the position, that in relation to some reports called for by the Commission from subordinate officers they were not seen by you?— That is so.

Was that the rule, rather than the exception. Was it more general for the Head Office to call for a report from a District Officer, and for that report not to be seen by you, or was it the other way around, that you saw most of them?— Up to the present Secretary commencing duty, I should say it was the rule, but since then, it is the rule for everything to go through the Divisional Inspector.

You told us that when you visited Fitzpatrick's mill site, you were shown by, I think, a son of the proprietor a quarry site which the proprietor thought was safer than any dugout system. Did you see that particular quarry?— Yes.

How far from the mill site was it situated?— I should say from fifteen to twenty chains from the mill. That is the quarry on Fitzpatrick's side of the road. There was also a quarry on Yelland's side of the road.

Did it appear to you to offer any protection in the case of fire hazard?— I would prefer to get into a good open space like that rather than into a closed dugout that would be crowded.

You might have had the experience that old soldiers had, that they would sooner be in the open than in a dugout when a raid was one. Is that your view?— The same thing applies in other places, where the mill hands got into the dams in the Rubicon area instead of into the dugouts.
THE COMMISSIONER: Nobody tried to get into it during the recent fires.

MR. GOWANS: One witness said that it was a death trap.

THE COMMISSIONER: I am talking about the quarry.

MR. SLATER: Apparently Fitzpatrick held that view rather strongly, and after you see no good reason to dissent from it, having inspected the site?— No, I think it was a good haven.

Knowing the area, you apparently believe it was reasonably safe, and you thought if the fire hazard came that would be a reasonably safe protection?— It was facing south, or south east, and the tendency of the fire would be from the north or north west. In that way, it would offer a natural shelter.

MR. GOWANS: With regard to the question asked by Mr. Slater, I do not desire to push this matter further, but I suggest that it is perfectly obvious from the files put in evidence that the District Officer must have been aware of the conditions of allotment, because he was asked in definite terms whether they had complied with conditions 5 and 6.

THE COMMISSIONER: Yes.

MR. GOWANS: In fairness to Mr. Gerraty, it is right to say that in a letter on Yelland's file, where he is asked to look into the question of compliance with a certain condition, the terms of the condition are set out in substance. That is one instance that supports what he has said. I have not had an opportunity of looking through the files thoroughly to see if they support him.

MR. HARDY: Among the minor causes of fire, you mentioned fires caused by lighting and by sportsmen. Only one case of fire by lightning has been mentioned during this inquiry. I think that was a case at the northern end of the Rubicon forest. Have you personal knowledge of that?— That evidence was in connection with outbreaks that occurred in January of this year, but I have had personal knowledge of other outbreaks by lightning.

I take it was a dry tree struck by lightning?— One case was a half-dried ash tree in the Rubicon country that was struck; a second
was a dry tree in the Otways, and the third was a dry messmate at Niagaroon.

But such dry trees are scattered through the old forest that has been cut over?— That is so.

Would you attribute the sportsman's fire to a camp fire lit in the hot season on a cold night for comfort, or, as one witness suggested at Belgrave, to clear a way upstreams in order to get better access for fishing?— Both are contributory causes. I think camp fires are carelessly left without being properly put out, and there are also cases of clearing along the creeks and through the scrub country for game.

Do you think that the districts of the District Officers are such that they cannot be efficiently superintended and controlled. What are the nominal and the actual hours of work of a District Officer? I can only speak with regard to my own division with respect to the area of an ordinary district. Definitely it is very much understaffed at the present time, and it is impossible to do the work.

THE COMMISSIONER: What about your hours of work, I suppose you finish when you are finished?— A District Officer starts at eight o'clock and finishes when he can knock off. I should say for six months of the year, they average at least twelve hours a day, and possibly up to fourteen hours a day.

Are you paid overtime for that?— No.

A district Officer must be a very tired man after a month or so?— They are, usually.

THE WITNESS WITHDREW.

AT 4.30 P.M. THE COMMISSION ADJOURNED UNTIL 10 A.M. ON WEDNESDAY, MARCH 29, 1939.
Author/s:
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