BETWEEN:

1939
Nov. 13

1940
Jan 31

THE FEDERAL DISTRICT COMMISSION, on the Information of the Attorney-General of Canada.. } PLAINTIFF;

AND

MARY LEAHY ET AL.....DEFENDANTS.

Expropriation—Value of property expropriated—Effect of standing timber on value of land expropriated—Value of land at date of expropriation not affected by the use to which it is to be put.—Evidence.

Plaintiff expropriated certain lands in the County of Gatineau, Quebec, for a public work known as the Federal District Commission Gatineau Park. The lands expropriated were unoccupied mountainous wood lots, unimproved and unsuitable for agricultural purposes The case reported and four others were tried together before this Court in order to have established the value of the expropriated lands.

Held: That the probability of any of the lands taken being utilized for building or residential purposes is too remote and speculative to have any effect on their present market value.

2 That it is the market value of the land, as land, that is to be ascertained or estimated in fixing the compensation to be awarded, and if the land expropriated contains stone, gravel, growing crops, or timber, and they belong to the soil and are capable of being converted into a merchantable product their existence as part of the realty may be taken into consideration in determining the compensation so far as they affect the market value of the land, and there can be no recovery for standing timber, for example, valued separately as a merchantable product, and as an item additional to the value of the land

3 That it is the value of the land as it stood at the date of expropriation that is to be established, unaffected by the laying out or construction of the public work on behalf of which the power of expropriation was invoked.

4. That evidence of offers to purchase lands which have been expropriated is always open to suspicion, easily fabricated and generally unsatisfactory, and in most cases should be rejected entirely, unless made by some person qualified to testify concerning land values, who has made an offer to purchase the lands in question, and states his reasons for making the offer and the grounds upon which he arrived at the price offered

5 That evidence of the amount at which property is assessed for taxation purposes, given by a municipal officer, not an assessor, is utterly valueless and should always be rejected.

INFORMATION by the Crown to have certain property expropriated in the County of Gatineau, Quebec, for a public park, valued by the Court.

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The action was tried before the Honourable Mr. Justice Maclean, President of the Court at Ottawa.

A. G. McDougall, K.C. and *Paul Ste. Marie* for plaintiff.

J. N. Beauchamp, K.C. and *C. H. Dowd* for defendants.

The facts and questions of law raised are stated in the reasons for judgment.

THE PRESIDENT, now (January 31, 1940) delivered the following judgment:

This is an expropriation proceeding taken on behalf of the Federal District Commission, hereinafter called "the Commission," and relates to lands taken under the provisions and authority of the Federal District Commission Act, and the Expropriation Act, for the purposes of the public work of Canada known as the Federal District Commission Gatineau Park, hereafter referred to as "the Gatineau Park." The lands are situated in the Township of Hull, in the County of Gatineau, in the Province of Quebec. In the carrying out of this public work the Commission, through voluntary sale, has acquired title to a considerable number of different tracts of land, and the Commission proposes to acquire title to additional tracts of land, by treaty with the owners, or, by expropriation proceedings, in order to come into possession of such an area of contiguous lands as the Commission deems desirable for the completion of the Gatineau Park, and that fact may lend some importance to the amount of compensation to be awarded in this and four other cases, heard at the same time.

This expropriation proceeding is one of five heard at the same time, and it was agreed that the evidence heard in this case would be evidence in the other four cases, so far as the same might be applicable, and my recollection is that in the end it came to be agreed that the evidence heard in any one case would be evidence in any of the others, so far as the same might have application. It will be convenient therefore in this case first to discuss and consider such matters as are common to all the five cases and this will enable me to dispose of the remaining four cases in comparatively brief terms; it will be understood therefore that much that I say in this case will be

applicable also to the other four cases. The defendants in the other four cases are respectively Frank Mulvihill, Peter S. Daly, Joseph Daly, and Owen O'Rielly, and if I should have occasion herein to refer to the lands taken from any one of those defendants it will be by reference to the name of the owner. It may be convenient also at times to refer to the case immediately before me as "the Leahy case."

I might first direct myself to some general observations applicable to the lands taken in each of the five cases. These different parcels of land are located between what is known locally as Meach Lake and the village of Kingsmere, in the Laurentian Hills, some twelve or thirteen miles from the city of Ottawa, in the Province of Ontario, and the city of Hull, in the Province of Quebec. That description of the location of the different parcels of land taken may be rather inexact but it will be sufficient for all practical purposes. All the lands taken are unoccupied, unimproved, and unsuitable for agricultural purposes. In two of the five cases, I think, there was the suggestion that some small portions or patches of such lands had at one time been under cultivation; if that be correct such cultivated portions have long since reverted to wild lands and that of itself would, I think, be rather decisive evidence against placing the same in the category of agricultural lands. I may therefore say that none of the five expropriated parcels has any present or prospective market value for agricultural purposes, and at any rate there was no evidence produced that would support such a claim. In two cases particularly some evidence was given to the effect that the lands there involved, or portions of them, were available and adaptable for building or residential purposes, a more valuable use than that to which they had been devoted before being expropriated, and it was claimed that some allowance should be made for such potentialities. I may at once dispose of that point though I shall have occasion later on to refer to the evidence presented in support of such a claim, in one of the cases. In my opinion, the suggested probability of any of the lands taken being utilized for building or residential purposes, of any kind, is too remote and speculative to have any perceptible effect upon their present market value and must therefore be excluded from consideration. In any

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event the evidence directed to this point was not of the character or weight required in the circumstances here to sustain such a claim. The five different parcels of land are located in what may be said to be a mountainous area, and generally they have the same physical characteristics. They were referred to throughout as "wood lots," they are locally known as such, and in the past they have been dealt in as such and nothing else, so far as I was able to observe. I think it is to be inferred from the evidence that the market value of wood lots in the area in question was controlled largely by the quantity and value of the standing wood thereon, and this will enter very prominently into the issue of the market value of each of the several parcels of land expropriated.

During the course of the hearings it at times appeared to me to look as if it were timber or wood that was expropriated, and not lands. The evidence led on behalf of the Commission was directed almost entirely to the value of the merchantable wood standing on the lands, while that on behalf of the several defendants was directed to the market value of the land as land, a value of so much per acre, and then to the market value of the standing timber or wood thereon, and to this evidence I shall return later on. Now this leads me to remark that it is the market value of the land as land that is to be ascertained or estimated in fixing the compensation to be awarded in each case. If lands expropriated contain, for example, stone, gravel, growing crops, or timber, and they belong to the soil and are capable of being converted into a merchantable product, their existence as part of the realty may be taken into consideration in determining the compensation so far as they affect the market value of the land, but the market value of the land as land remains the test, and there can be no recovery, for example, for standing timber, valued separately as a merchantable product, and as an item additional to the value of the land. That seems to be a well established principle and it would seem to be perfectly sound. In the cases before me, it was specific parcels of lands that were taken; it was that to which the Commission acquired title, and it is for the taking of such lands that compensation in some amount must be awarded the owners. It is the value of the land as it stood at the date of expropriation that is to be estab-

lished, unaffected by the laying out or construction of the public work on behalf of which the power of expropriation was invoked.

As a rule there will always be found one difficulty or another in determining the compensation which should be awarded a proprietor whose lands have been taken from him, even if the amount involved is not large. And the cases now before me offer no exception to that rule. It has often been said that the measure of compensation is the fair market value of the land, and that the fair market value is that amount of money which a purchaser willing but not obliged to buy the property, would pay to an owner willing but not obliged to sell it, taking into consideration all uses to which the land was adapted and might in reason be applied. It has also often been said that the market value of the land shall be taken to be the amount which the land if sold on the open market by a willing seller might be expected to realize. There is not in general any market for land in the sense in which one speaks of a market for shares, or a market for commodities. The value of shares or commodities can be readily ascertained by the prices being obtained for similar articles in the market. The market value of a piece of real estate is not ordinarily so easy of ascertainment, and this is partially attributable to the fact that no two tracts of land are ever exactly alike, and the price of real estate is largely influenced by the necessities of the seller and the requirements of the purchaser, and the use to which the land has been or is intended to be put. In the case of land, its value in general can be measured by a consideration of the prices that have been obtained in the past for land of a similar quality and in similar locations, and that, I think, is what is meant in general when reference is made to "the market value" of a piece of real estate. But it does not always happen that previous transactions in similar lands afford much real assistance, and, I think, this might be expected of lands of the type with which we are here concerned. In fixing the compensation, consideration must be given to the value of the lands taken to the owner, and it is the value of the property at the date of expropriation that is to be ascertained, and not its future value. Further, the land is not to be valued merely by reference to the use to which it was being put

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at the time at which its value has to be determined, but also by reference to any and all uses to which it is reasonably adapted and might with reasonable probability be applied. Such are the principal considerations to be observed in ascertaining the market value of lands compulsorily taken.

I next wish to refer to certain portions of the evidence, which, I think, must be disregarded, or excluded from consideration altogether, upon one ground or another, and the first I shall make reference to is the following. A municipal officer, not an assessor, was called to state the amount of the assessment levied against each of the five properties taken by the Commission. It is obvious that this kind of evidence is utterly valueless and should always be rejected, and such is my practice, but I find that such evidence appears in the record here. The reason why that evidence should be excluded is that it cannot be used by the expropriating party as an implied admission by the owner that his land was not worth more than the assessment, for no inference can fairly be drawn against an owner of land from his failure to protest that the valuation put upon it by the assessors was too low. It is notorious that land in most sections of the country is not assessed at its full market value. If the assessors themselves were skilled and experienced in real estate values, and were called as witnesses to explain the basis upon which their assessments were made, that is what proportion of the market value was represented by the assessment, some assistance might be derived from their evidence and, I think, it would be admissible. For the same reason the expropriating body might call the same skilled experienced assessors, to show by how much the value represented by their assessment exceeded the market value of the property, and it is well known that instances of this are frequently found to-day, in some cities particularly. I propose therefore to disregard entirely the evidence relating to the assessments levied against each of the five properties.

The next piece of evidence to which I wish to make reference is applicable to one case only, the O'Reilly case, but I may be pardoned for discussing the same here, while considering other portions of the evidence common to all the cases. In that case it was claimed that the lands

taken were adaptable for building purposes, and particularly as a site on which to establish a sanatarium or health resort of some nature. To support this claim a young lady, who at one time performed clerical services for Mr. O'Reilly when he was carrying on some wood-cutting operations on his expropriated property, was called as a witness, and she testified that in July, 1937, she offered in writing to purchase the lands of O'Reilly for the particular purpose which I have just mentioned, and to pay therefor the sum of $3,000, and the letter was put in evidence, and, I think, without objection. The offer was never accepted, and as Mr. O'Reilly was not called as a witness at the trial, no explanation was given as to why the offer was never accepted, or why it was refused if such were the case. I suspect that Mr. O'Reilly never treated the offer seriously, and probably regarded the price offered as excessive for a property for which he paid but $575 in 1934, and after having in the meanwhile cut and sold the greater part of the wood that was on the land when he purchased it. The offer, I think, was one that was not enforceable had it been accepted just immediately prior to the expropriation, which was in November, 1938, some fifteen months after the offer was made, that is, if the party making the offer refused to complete the transaction. In many jurisdictions evidence of offers for the purchase of lands is not permissible in expropriation proceedings. They usually cast no light upon the question of value, and the party making the offer might be incapable of having any knowledge of the value of the land, for the purpose which he or she had in mind, or for any other purpose. Evidence of offers to purchase lands which have been expropriated are always open to suspicion, easy of fabrication and generally unsatisfactory, and probably in most cases should be rejected entirely. It has been held in some jurisdictions that offers to purchase the lands in question, made in good faith, within a reasonable time, and with the intention and ability to carry out the transaction if the offer were accepted, are admissible as independent evidence of value. If a person qualified to speak about land values, and who has made an offer to purchase the lands in question, appears in court and testifies as to his reasons for making the offer, the grounds upon which he reached the price offered, it probably would be another

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thing. At any rate, I attach no weight whatever to the offer made in the way of establishing the market value of the lands of O'Reilly, for any purpose, and I heard no evidence which would encourage me to think that the young lady who made the offer was qualified to speak as to the market value of those lands. I therefore exclude from consideration the evidence of this offer, in determining the value of those particular lands.

Another point which I might here mention was raised in connection with four of the five cases. It was urged upon me that where the occupation of the owner of an expropriated wood lot was that of a farmer, that the wood lot should be treated as an adjunct of his farm, even though located some miles distant, on the ground that it was a source of wood supply for the general purposes of the farmer-owner and therefore constituted a special element for consideration in computing the market value of the wood lot. And evidence was given to the effect that in four cases the defendants were farmers by occupation. I am not quite sure whether or not it was the submission of counsel for the Commission that this proposition was in principle wholly untenable, but it was at least contended by them that it should not apply in the case where the farmer-owner had not in fact cut any wood from his wood lot for many years prior to its expropriation, which was the fact in the Leahy case, and that it should not apply in the case where the farmer-owner made a practice of cutting merchantable wood from his wood lot, for sale in the market. In the way this matter was put to me it would seem to ask me to support the principle that if a farmer owned a wood lot and used it as a source of wood supply for his own consumption only that this added something to the value of the wood lot, but if he used the wood lot as a source of wood supply, not for his own consumption but for sale in the market, or, if he did not use it at all for a substantial period prior to its expropriation, for any purpose, no additional value accrued to the wood lot by reason of it being owned by a farmer. I think to state the proposition in that way is to reveal its inherent fallacy, because, if a sound one, it would require, in an expropriation proceeding, evidence showing for what purpose a farmer acquired his wood lot, and what use he made of it, and so on, which would appear to me quite imprac-

tical. It would be more perplexing still in the case where the farmer-owner used his wood lot as a source of wood supply for his own consumption, and concurrently for other purposes. I do not see how such a principle could be safely applied in cases of this kind, and if attempted it would likely lead to curious and doubtful results. If a farmer had an appreciable quantity of standing timber or wood on a portion of his farm, that would constitute a very important element for consideration in ascertaining the market value of his farm lands, were they expropriated. A wood lot owned by a farmer, separated considerably from his farm lands, might be of substantial value to him, but I doubt if it can be said to add to the market value of his farm. The farm, I think, must be considered as one property, the wood lot as another. I think that the wood lots expropriated by the Commission must be valued as something apart from farm lands, if the owner happens also to own and occupy farm lands, and as a separate parcel of land, and upon the considerations applicable to the wood lot alone. I am not disposed to accept the principle advanced although conceivably, in a special state of facts, a wood lot separated from farm lands, might be treated as a working adjunct of a farm, and its expropriation might conceivably reduce considerably the value of the farm lands and therefore be a cause of damage to the owner of the farm lands, but in the state of facts disclosed in the cases before me I do not think this can be considered. The general principle that the value to the owner of the lands taken, is an element always to be considered, is, I think, a safer rule to follow than that which requires one to distinguish between the case where the farmer-owner uses his wood lot entirely for his own purposes, and the case where the farmer-owner uses his wood lot as a source of wood supply which he proposes to sell, and does sell, in the market.

Evidence was given as to the prices paid by the owners of four out of the five parcels of land expropriated, and also as to the prices paid at voluntary sales of land said to be similar to those expropriated by the Commission, and I wish to refer briefly and generally to this evidence. When a parcel of land is taken by expropriation proceedings the price which the owner paid for it when he acquired it is generally regarded as a very important piece of evidence

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in determining its present value, and is generally held admissible either as independent evidence of value, or to rebut the owner's contention that his property was now worth a larger sum, providing the sale was fairly recent in point of time, was a voluntary transaction between competent parties, and providing no change in conditions or marked fluctuations in value have since occurred. A price paid under such conditions is a circumstance which a prospective purchaser would no doubt consider in determining what he himself should pay for the property. Such evidence, however, is not conclusive but it is one point to be considered with all the other evidence. When I come to deal specifically with the matter of the amount of compensation to be allowed in each of the four cases referred to I shall state just what that evidence was. Considerable evidence was given as to the prices paid for what was alleged to be similar lands, within the same general area as the expropriated lands, or in neighbouring areas. Evidence as to the price paid at a voluntary sale for lands claimed to be similar to those expropriated is ordinarily admissible and frequently will have considerable probative value, if a reasonable similarity between the lands can be shown to have existed. I have no doubt but that the lands referred to had much the same characteristics as those taken by the Commission, but as the market value of such lands, and likewise those taken by the Commission, depends, it is agreed, very largely upon the value which the merchantable wood standing thereon gives to the land, the character and quality of the wood, the size and contour of the lands, their accessibility, and so on, I find it difficult upon the evidence before me, to make any close comparison between the wood lots involved in voluntary transactions and those taken by the Commission. I think it may be inferred that the transactions in lands to which I was referred related to wood lots, and that they were bought and sold as such, and that the price paid for the same was largely determined by the stumpage value of the merchantable wood thereon. It will be obvious therefore that if a transaction in a wood lot takes place upon such a basis, and the quantity of merchantable timber or wood standing upon the lands is the important element considered by the prospective purchaser and determines ultimately the price he will pay for the same, the

price paid cannot well be taken to be very decisive of the value of another wood lot, unless it were shown clearly by the evidence that the lands were very similar in almost every respect. The price paid for one wood lot in the territory in question may not be of great assistance in the case of another wood lot, of the same area, because of diversities as to quantity, variety, quality and value of the wood thereon, and other possible diversities. Therefore, as the market value of the several parcels of lands taken here would, at the time of expropriation, be influenced by the value of the merchantable wood on the same, the evidence given at the trial in respect of each wood lot in question is, I think, on the whole to be preferred to that relating to the prices paid for other lots, at other times, and at other places, and therefore I do not propose to enter into any detailed discussion of the evidence given concerning the sales of lands said to be similar to the lands expropriated by the Commission. But that does not mean that I propose to disregard that evidence entirely because it is of some general assistance. It gives one a general idea of the general character and value of wood lots in the territory in question, the basis upon which the values of such wood lots in the open market have been established, and the stumpage value of standing wood of certain varieties at the time of the transaction.

Before discussing in some detail the evidence presented in the particular case before me a few observations might properly be made explanatory of the general character of the evidence submitted in all the cases, on behalf of the parties thereto. The witnesses called on behalf of each defendant to establish the market value of the lands taken spoke of the same as being worth so much per acre, and then they valued separately the wood on the land, and the total was claimed to represent the market value of the lands in each case. In some cases additional values were claimed on the ground of the special adaptability of the lands for purposes other than that for which they had been used, but those claims I have already disposed of. As I have already stated it is the land that is to be valued, but the wood may give a value to the land. It was the land and not the wood that was expropriated. The defendants cannot get the market value of their lands, and in

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addition thereto the market value of the standing wood. While the evidence of the defendants was given that appearance, and the amounts claimed would rather indicate that, yet, I think, the intention was to establish a figure that, in the minds of the defendants, represented the market value of the lands and everything that went with them. The evidence tendered on behalf of the Commission was put in another form. The witnesses for the Commission sought to establish the market value of the lands by estimating the quantity of the standing merchantable wood, and valuing the same at what they claimed to be the stumpage rates current in or about the territory in which the lands lie, and that, they said, would represent the market value of the land; and they testified that the land with the merchantable wood removed would have no market value at all, and would not be saleable. They did not include in their estimates of quantities any standing trees less than four inches in diameter which, they stated, if cut would have no realizable value because unmarketable, nor would they add anything to the market value of the lands if for sale in the open market. The mere valuation of the merchantable wood on a piece of land would not, I think, be a proper principle upon which to proceed to ascertain the value of the lands, and such values could not be regarded as conclusive of the value of the land, unless it were shown that the lands would have no market value at all if the marketable wood were once removed. It was stated by the witnesses for the Commission that "wood lots" in the area in question, and in contiguous areas, were always bought and sold on the basis of the estimated stumpage value of the merchantable timber and wood thereon, and that such estimates determined the market value of lands of that character. Now, that was the general character of the evidence given on behalf of the Commission, that was its method of approach to the question of the market value of these lands, and that will explain why so much emphasis was placed upon the standing wood on the lands, and so little upon the lands as lands; the purpose however was made clear.

I may now proceed to a consideration of the case immediately before me, which involves land containing fifty acres more or less, inherited by Mary Leahy the wife of

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Michael McCaffery, and Margaret Leahy the wife of Richard Mulvihill, the respective husbands being farmers. There have been no transactions in these lands for many years, and there was no evidence as to the price paid by the owner through whom the defendants came into possession of the same. The amount of compensation claimed by the defendants at the trial was $8,260 while the amount tendered by the Commission was $800. The land is of the general character I have earlier described, that is to say, it is a wood lot and substantially nothing else, but no wood has been cut or removed from the property in recent years. Mr. McCuaig, the chief witness for the defendant, estimated that the land contained about 100,000 feet, board measure, of merchantable standing timber which he valued at $13 per thousand feet, altogether $1,300; 1,200 cords of hardwood of a good quality which he valued at $4 per cord, a total of $4,800; and 280 cords of mixed wood, of a lower grade, which he valued at $2 per cord, amounting to $560. In addition to this he gave a value of $15 per acre to forty acres of the whole parcel of land, and $100 per acre to ten acres which surround the greater portion of a small lake within the lands, this value being claimed on the ground that the same was suitable for residential purposes, but I have already expressed the opinion that there was no evidence to support such a claim. The total value given to the lands by Mr. McCuaig was $8,260. The evidence submitted on behalf of the owners, I think, so much exaggerated the value of the lands that its usefulness is almost entirely lost, a practice not uncommon with expert witnesses but nevertheless regrettable because in the result it renders little assistance to the Court in determining the value of the property in controversy. A witness called on behalf of the Commission, Mr. McKeagg, carefully examined the lands in question and he estimated there were standing on the same about 14,000 feet, board measure, of merchantable timber, which he valued at $10 per thousand feet on the stump. He estimated that there were in addition 550 cords of hardwood of a good quality, the stumpage value of which he estimated at $1.25 per cord, and 200 cords of mixed wood, of a lower grade, which he valued at 75 cents per cord, making altogether a total value of $975 for all the merchantable wood on the land

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at the time of the expropriation. Mr. McKeagg impressed me as being a very competent and independent witness, and by experience highly qualified to speak of wood lot values, and the stumpage values of merchantable wood that might be found thereon. His evidence was, in my opinion, free from advocacy which is so frequently the great defect of opinion witnesses, and he would have no motive for depressing the value of these lands. Mr. McKeagg is in no way attached to the Commission, and his evidence as to values was a little higher in all cases but one than that stated by other witnesses called on behalf of the Commission. I think the evidence of Mr. McKeagg may be accepted as approximating fairly well the quantity and quality of the merchantable wood on the lands, and the stumpage values of the same current in the market at the date of expropriation, which, in his opinion, was the only thing that gave any value at all to the lands. He gave no value to wood that he considered not merchantable, wood that was less than four inches in diameter, and certain other woods, which, he stated, could not be profitably marketed. If certain wood found on a lot of land at the date of expropriation is not merchantable and imparts no value to the land at that date, then it might be argued, and with some force, that the non-merchantable wood should not be considered in ascertaining the present value of the land, on the principle that it is the value of the lands at the date of expropriation that is to be determined, and not their value at a future date. But that view of the matter fails to take into consideration other factors that I do not think can be entirely excluded from consideration.

While the value of the merchantable wood, on what is usually known as a wood lot, is of course an important consideration in determining the market value, yet, I think, it is not conclusive of the value of the lands, though in the practical sense it may be in most cases. It is possible that some persons, other than those who acquire wood lands for the purpose of cutting and removing the merchantable wood therefrom, might consider that the land had a value in excess of that represented by the stumpage value of the standing merchantable wood, and that some wood not merchantable in the open market for certain purposes had a value for other purposes, for example, the

purposes of the owner. Wood that was not merchantable in the market because of its size, quality, or immaturity, or something else, might be utilized with complete satisfaction for the purposes of the owner, and that, I think, cannot be disregarded in estimating the value of lands taken from the owner. Estimating the quantity, quality and value, of the standing wood on a piece of land may be desirable and necessary from the viewpoint of a prospective purchaser who has in contemplation the acquisition of lands for the purpose of getting title to the merchantable wood thereon, and it may be the major factor in ascertaining the value of wood lands generally, and in some cases it may very well approximate the fair market value of the lands and their value to the owner, but that method of valuing lands might not be applicable in all cases, and it might work an injustice in some cases. The principle which I am discussing may be of little importance in this case, or in the other four cases, but I do not wish to be understood as acceding to the principle that the market stumpage value of merchantable wood on a piece of land is conclusive of the fair market value of the land itself, or that it is a principle to be followed generally in estimating the value of lands compulsorily taken from the owner.

I have taken into consideration the extent and physical characteristics of the lands in question, their accessibility, the fact that the lands had not been cut upon in recent years and that they contained a substantial quantity of marketable wood, the fact that portions of the land are not of the same value as other portions, and I have taken into consideration the value of any wood growing on the land which might not fall into the category of "merchantable wood" but which might have a use and value to the owners, for a variety of purposes. I have taken into consideration all these elements and I have concluded to fix the compensation at $1,150, which amount, I think, would fairly represent the market value of the property at the date of expropriation. I therefore find the defendants entitled to compensation in the sum mentioned, with interest from the date of expropriation and their cost of this proceeding, and an order will issue in the form usual in such cases.

Judgment accordingly.