APRIL 1.

Abitibi Sale Opposed By Royal Commission; Interest Cut Is Advised

Joint Control Proposed Until Debt Reduced; Suggests 7-Man Board

McTAGUE INQUIRY

A plan to reorganize the Abitibi Power & Paper Company without disturbing the capitalization, but reducing the dividend rate on 7 per cent preferred shares to 3½ per cent and on the 6 per cent shares to 3 per cent, non-cumulative, was presented yesterday by the Royal Commission investigating affairs of the company.

The report, covering forty-six pages and signed by Mr. Justice McTague, chairman, and Sir James Dunn and A. E. Dyment, commissioners, was tabled in the Legislature by Premier Hepburn.

The report advises against any sale at the present and suggests special legislation to make the plan effective.

Other recommendations in the report are:

The trust deed covering present bond issue should be amended to extend the maturity date to Dec. 1, 1965, and its provisions as to sinking fund and application of money received from the sale of capital assets eliminated, past due interest on interest should be calculated to Dec. 1, 1940, and from that date there should be no further accumulation of interest on interest; otherwise there should be no alteration of the company's obligations, except such as necessary under this plan.

The commission believes that for a period of five years, or until the bond indebtedness had been reduced to $35,000,000, the company should be run by a board of seven directors, four from the bondholders and three from the preferred shareholders. At termination of the allotted period, the company should be managed by shareholders.

Working Capital.

Before payment of interest on bonds, the working capital should be maintained at $10,500,000, and if there should be an excess of working capital in any year, the amount over and above the suggested figure should be applied to payment of the next interest due on bonds, the commission advises. If a surplus still remains, it should be used to buy bonds on the open market.

When the plan becomes effective, the company should deliver to the Montreal Trust Company, as trustee for the bondholders, a quit claim and release of all its properties and assets in escrow, which would become effective if, during the five-year period, the company failed to pay current interest on the outstanding bonds. Also, if the plan is put into effect, the receiver and manager and the liquidator should resign and the present bondholders' action against the company be discontinued.

Referring to the ordinary creditors' claims, the commissioners thought that half of the claims should be paid in equal instalments over a four-year period, providing there had been no default to the bondholders in the meantime. If at the end of five years there had been no default, the remaining half should be paid in a similar manner. There is no provision for interest on these claims.

After reviewing the history of the company's difficulties and referring to evidence presented, the commissioners report they are impressed with the inadequacy of existing legislation to meet the situations which arise when companies find themselves in trouble. They hope that sufficient public interest might be aroused to bring about changes in the laws, but do not express an opinion as to what form these changes should take. They suggest, however, that existing U.S. legislation should be taken as a basis, but as a basis only, as they believe it can be improved.

Junior Securities.

The report notes that the Bondholders' Protective Committee in 1937 brought down a plan which, in principle, admitted there was some equity for the junior security holders.

"In 1940, with the company's financial situation considerably improved, the same committee takes the position that there is no equity," the report says. "In other words, the committee simply chooses to ignore the Companies' Creditors Arrangement Act, because in its judgment there is no issue as to whether there is an equity or not. It seems to us that where there may be an issue involved as to whether there is an equity, the court should be given the power to determine the issue and not let the bondholder be the sole judge.

"As the law now is, if the bondholders conclude there is no equity, they simply proceed to foreclosure through the unwholesome fiction of a sale. It is pure fiction because, as pointed out in a report of the Securities and Exchange Commission of the United States, ordinarily no one but a committee of bondholders could purchase the assets, and, in the absence of competitive bids, the holders of the primary securities can buy the property for much less than its real value, not only to the detriment of the junior security holders but also to the financial disadvantage of bondholders who have not elected, perhaps for very excellent reasons, to place their bonds under the control of the committee."

In referring to deposit agreement, the commissioners thought that the court should have the right to order a full and independent vote by all members of any class and should have the power to disregard provisions in any agreement which might operate against such an independent vote.

Touching on the pulp and paper industry as a whole, in relation to the Government, the report states there has been built up over a period of years a vested interest based on the sanctity of contractual relationship.

"In our view the day of dispensing favors in the form of timber concessions to new political friends are long gone by, and for some considerable time the problem will be one largely of judicial administration of the raw material requirements of the industry as presently constituted," the report continues. "A general feeling of insecurity can be detected, which can be rectified only by the removal of suspicion that political considerations and not plain justice prevails in the relationship between the Government and the industry."

The commission says that if an agreement on Abitibi cannot be arrived at in spirit of co-operation, the matter becomes one of a question of policy for the Government.

"We offer no suggestions," the report adds.

"The subject of proration is a delicate one," the report continues. "It is difficult to suggest a policing duty on the Government. From a long range view, one would think the industry itself would appreciate its value and govern itself accordingly. From the point of view of the national interest in acquiring valuable United States exchange, and from the point of view of labor, proration would seem to be highly desirable and we think that the Government should do all it can to keep it in force."