

As the Commissioner of Crown Lands was acting in a judicial capacity when both the parties were present before him on 27th April, it must be assumed that he had before him all the information required to be furnished by plaintiffs under sec. 21 of the Act before he fixed the schedule of tolls,—in fact he could not have determined what the tolls should be without such information. And an examination of that section requires that the information to be furnished shall cover everything which could be obtained had the witness answered the questions which were asked.

There is no issue raised as to which the information, if it had been obtained in answer to the questions put, could be given in evidence on the trial. All that information must be furnished to the Commissioner of Crown Lands, who is by the statute made the judge as to what tolls are to be levied, and both the company owning the works and those driving timber over the improvements are bound thereby, and there is no way in which his decision can be questioned at the trial of this action. See *Hardy Lumber Co. v. Pickerel, etc., Co.*, 29 S. C. R. 211-217.

Then as to the appeal by plaintiffs from that part of the same order requiring plaintiffs to make a further and better affidavit on production, particularly regarding the books and papers containing information on the matters referred to in the questions already referred to, and in the additional questions, the numbers of which are also given: the documents sought are the books and statement of plaintiffs shewing the cost of the repairs of the works, etc., etc.

What I have said in regard to the other ground of appeal applies equally to this ground.

The appeal of plaintiffs on both grounds must be allowed, and the order appealed from set aside with costs to plaintiffs in any event.

MACMAHON, J.

FEBRUARY 1ST, 1905.

CHAMBERS.

PICKEREL RIVER IMPROVEMENT CO. v. C. BECK
MANUFACTURING CO.

*Discovery—Examination of Officer of Defendant Company—
Action for Tolls—Timber Slide Companies Act—Penalty
or Damages.*

Appeal by defendants from order of MCANDREW, official referee, sitting for the Master in Chambers, directing C.