General Evidence
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IN THE MATTER OF THE "INQUIRIES ACT"

PART 1, REVISED STATUTES OF CANADA 1927, CHAPTER 99.

B E F O R E

(The Honourable Mr. Justice H. I. Bird, Commissioner).

Vancouver, B.C.,

October 12th & 13th.

INQUIRY INTO THE CLAIMS OF PERSONS OF THE JAPANESE RACE REGARDING THE MANAGEMENT AND SALE OF THEIR PROPERTY BY THE CUSTODIAN.

RE: CORPORATE CLAIMS.

PROCEEDINGS AT HEARING

(Pages 1 - 135)

The Commissioner:

Vancouver, B.C.

October 12th, 1948. 10.30 a.m.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

Present:- J.W.G.Hunter, Esq. K.C., appearing for the Custodian.

G. W. McPherson, Esq., appearing for the Custodian in respect of Claimants.

D. Braidwood, Esq., appearing for the Custodian in respect of Claimants.

R.J. McMaster, Esq., appearing for the Japanese claimants.

J. A. McLennan, Esq., appearing for Royston Lumber Co. Ltd.,

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THE COMMISSIONER: I hope counsel is not going to be too crowded this morning. You will have to be ~~happy~~ content with this situation for a few days while the Exchequer Court is here.

MR. McPHERSON: My lord, I have requested this opportunity for the purpose of introducing general evidence about the corporations with the idea that it may clarify the minds of counsel and probably some confusion in your own mind that may have been created at the meeting of the Commission on December 3rd, 1947.

At that time Mr. Brewin and Mr. Hunter discussed the question of the administration of corporations, and the basis on which he took them over, and that is one reason for asking at this time for permission to introduce evidence to show what the Custodian did, and another reason, to show the relationship between

the Custodians' office and P. S. Ross & Sons and Frederick Field, and in doing that I shall endeavor to qualify P.S.Ross & Sons and Frederick Field as liquidators.

THE COMMISSIONER: Now having in mind that we intended to deal with each corporate claim as if it were being handled in an ordinary lawsuit, I take it your purpose in proceeding in this way is to outline to claimants' counsel the procedure that was adopted previously, and then ~~with~~ the material introduced in the next two days ~~it~~ will be available as defence evidence to each of the corporate claimants.

MR. McPHERSON: Yes, I thought it would save a lot of repetition in each case.

THE COMMISSIONER: Is there any objection by counsel for individual corporate claimaints to this procedure being adopted.

MR. McLENNAN: There is no objection to that except your lordship said the evidence would be available to the Government for the defence.

THE COMMISSIONER: Of course.

MR. McLENNAN: There is just one thing I would like to speak to on the question of corporate claims. Your lordship was given a letter at the time the corporate claims were going to be added to the personal claims -- with an undertaking on it the corporations would be bound by these proceedings and I would just like to clarify that.

Re Jan 9-43.

THE COMMISSIONER: What is the letter you refer to?

MR. McLENNAN: It was a letter written by Mr. Norris

your lordship, to your lordship.

THE COMMISSIONER: And the date?

MR. McLENNAN: I haven't the exact date or the letter here, but it was a personal letter to your lordship, saying that if your lordship would recommend the corporate claims being heard then certain corporations mentioned therein would be bound by the proceedings.

THE COMMISSIONER: Yes, I recall it now.

MR. McLENNAN: And I would like to clarify that, to make it clear now, that the claims that are being heard by your lordship are on the basis that they are being dealt with in the same manner as personal claims. That was covered in the letter: that the corporations reserve their rights -- any rights they may have to institute proceedings in respect of any matters that your lordship considers is beyond the scope of this reference.

THE COMMISSIONER: That is to say the corporate claimants are content to be bound by my recommendations in respect to any matter that I consider is covered by the terms of the reference to me.

MR. M cLENNAN: Anything that is dealt with by your lordship or anything covered by the reference.

THE COMMISSIONER: But in relation to matters that I hold are outside the terms of reference, then the various corporations desire to reserve their right to proceed independently if they wish.

MR. McLENNAN: Yes.

THE COMMISSIONER: Do you all join in that position, that

is all counsels for all corporate claimants.

MR. McMASTER: I don't believe that the corporations that I am acting for were included in the letter written by Mr. Norris, but I would be prepared to recommend that.

THE COMMISSIONER: On the contrary, Mr. McMaster, the letter was required by myself, as a condition of my recommending to the Government that they should broaden the terms of reference to include corporations.

MR. McMASTER: If Mr. Norris's letter was given on behalf of the Japanese Committee -- and I take it it is quite possible it was, I am bound by it.

THE COMMISSIONER: Well certainly you would not have been here -- or I will put it this way: My letter to the Department of Justice would not have been written had it not been for the receipt of Mr. Norris's letter. That is right, is it not, Mr. McLennan?

MR. McLENNAN: That is right, my lord, but we were only representing certain corporations at that time and we could only speak with regard to them and I believe Mr. McMaster's clients were not mentioned in that letter, but the main claimants were mentioned in the letter.

THE COMMISSIONER: Does that change your position Mr. McMaster?

MR. McMASTER: I don't know, but what I do say is this: before we proceed with any of the claims I will

that reservation.

THE COMMISSIONER: I think that is desirable. Perhaps it should be shown on the record now who the claimants were, and who Mr. Norris was speaking for at the time he wrote the letter. Can you recall those claimants, Mr. McLennan?

MR. McLENNAN: I can only recall just three of them at the moment. Deep Bay Logging Company; ~~Kiatsu~~ Kaatsu Limited (?) and Royson Lumber Company Ltd.

THE COMMISSIONER: Has government counsel anything to say on this matter. I think we should have the Crown quite clear as to ~~just~~ the effect of whatever recommendations I may make.

MR. McPHERSON: Yes, I quite understand it. It is my understanding that these claimants were brought within the terms of reference and if any counsel brought any claim before your lordship they were bound by that claim insofar as it was within the reference, but I would have to consider Mr. McMaster's proposition: If he is not able to say today that any cases that are brought before you that he is not in Mr. Norris' position and is not bound by same. If Mr. McMaster is not going to be bound I would not have to undertake to supply him with any additional evidence from the government's files, because I do not think I should be supplying him with information for any civil action.

THE COMMISSIONER: I would go further than that. I would decline to hear the claim if it was presented on the same basis as the broadened of the terms of

reference, because otherwise I would be assuming the function of government, other than what is a quasi judicial function.

MR. McPheRSON: But if Mr. McMaster is prepared to give that undertaking now I would ask for a ruling as to whether the government would have to supply any information for a civil action, because it would be very embarrassing.

THE COMMISSIONER: Well, no harm would be done if we proceeded to hear the general evidence, which counsel for the government proposes to adduce in the next few days, and that would give you time, Mr. McM aster to get instructions.

MR. McM ASTER: I might say with regard to the United M arine Products and Haney Box Company, they are appearing through the committee. The committee were included in the representations that were made at the time Mr. Norris' letter was written and I can give my undertaking in regard to that. I do not anticipate any difficulty in getting instructions from the Haney Mills Limited, but in that case I am not retained through the committee and I would hestitate to give instructions before next week.

THE COMMISSIONER: Well then, that is satisfactory. We can proceed with the hearing of the general evidence on the basis that has been outlined previously in this discussion.

MR. McPHERSON: Well I will call Mr. Shears, my lord.

FRANK G. SHEARS, being first duly sworn, testified as follows:

MR. McMASTER: Before Mr. McPherson proceeds, my lord, there is one matter I would like to get clear. Mr. Shears and Mr. Field are now giving evidence of a general nature with regard to corporations and I presume counsel for the various corporations will have an opportunity at a subsequent time at these hearings, when these cases are being heard, to cross-examine with regard to that claim ~~along~~ and that our cross-examination in this case should be limited to the general matters that affect all corporations, but that we shall have an opportunity to cross-examine further in the individual cases.

THE COMMISSIONER: Well, what is the situation there, Mr. McPherson?

MR. McPHERSON: Well, my lord, it is my intention to put in general evidence, and when the individual cases are being called when Mr. Shears or Mr. Field may be cross examined on particular facts in the particular case, which they require information on, but I am not prepared to give an undertaking that I will call Mr. Shears and Mr. Field in every case. If Mr. McMaster wishes to call them he can call them, but I could not undertake to call them in both instances, and I think it is quite obvious. But I don't want to give any undertaking --

THE COMMISSIONER: This occurs to me. Some representative of the government or the Custodian will have to be called by the Government in connection with each

corporate claim. Now so long as the corporate claimant has the right of cross examination of the government witnesses who are then called at the hearing of the individual corporate claim, that should meet your istuation, Mr. McMaster, should it not?

MR. McMASTER: I appreciate the fact there may be situations where the Custodian took certain actions prior to Mr. Field coming into the picture and I doubt whether Mr. Field would be able to give evidence of his personal knowledge on these matters.

THE COMMISSIONER: Of course, these are matters that could have been discussed between counsel before opening this general evidence and then if any ques tion had arisen it should have been brought before me. It appears to me now to be a bit late in coming now with evidence along this line. I do not allow counsel who are called on general matters to go into special matters at this hearing. It seems to me it would be asking far too much, and yet I do not wish to have this general evidence developed, by way of cross examination into an investigation of a particular claim. Perhaps counsel might discuss this situation among themselves, say in the luncheon interval, and if you cannot agree, it can be re-opened again after lunch. All right, you may proceed, Mr. McPherson.

MR. McPHERSON: My lord, I assume it is unnecessary to qualify Mr. Shears, in view of the fact he is so well known to your lordship and to counsel.

THE COMMISSIONER: I should think that is right.

DIRECT EXAMINATION BY MR. McPHERSON:

Q Mrs.Shears, I would like you to explain to his lordship what the attitude of the Custodian's office was subsequent to Pearl Harbour, and after passing the Order-in-Council P.C. 1665, which has already been filed as an exhibit. I would like you to outline to his lordship, the position the Custodian took with respect to the Custodian's duty? A. May I remain seated, my lord. You gave me that privilege before.

THE COMMISSIONER: Yes.

THE WITNESS: Your lordship, I do not think that my general evidence will consume a great deal of time. In my previous evidence I indicated that the office of the Custodian in Vancouver was organized almost immediately after Pearl Harbour, December 7th, 1941. At that time of course, the organization was set up for the purpose of dealing with strictly enemy assets and in speaking of enemy assets there was no question -- the question was not whether the owner or owners of those assets were Japanese Nationals; whether they were natur-alized or whether they were Canadian born.

THE COMMISSIONER: Q; Mr. Shears, we are ~~not~~ not concerned now with the realization of corporate assets belonging to Japanese Nationals. Let us get on with the problem I am faced with now.

MR. McPHERSON: My lord, the only point that may be of

interest to your lordship here is that in some of the individual cases evidence will be adduced to show that it was the enemy section of the Custodian's office that first became interested; and it was the enemy section that took over control of the companies, and I think it would shorten it a bit -- Mr. Shears can probably shorten it in individual cases.

THE COMMISSIONER: All right, proceed.

THE WITNESS: The enemy interests being represented by residents of Japan and it was found at that time that there were corporations, in which the shareholders were enemies. At that time the office was operating -- that is 1939- or rather the office was operating under the 1939 regulations respecting trading with the enemy, under which all enemy property was automatically vested in the Custodian. That can be found in regulation 21, sections 1 and 2.

The Custodian never vested a corporation as such, but the enemy shares did automatically become invested in the Custodian.

The Custodian also had the right to deal with enemy interests other than shareholding interests, and dealt with the question of enemy company -- enemy debts . Then with the passing of Order-in-Council, P.C.1663 -- or 1665 of March 4th,1942, all property of persons of the Japanese race, even if they were not enemies, automatically became vested in the Custodian. That, as you are well aware, sir, was with certain exceptions. Some of those

exceptions have been referred to, and dealt with, sich as the exclusion of fishing vessels; but there was included in that Order-in-Council another exclusion, namely shares of stock.

At that time it was considered that the Custodian had no authority to take over shares of any evacuee, nor did he consider he had any authority therefore to deal with the evacuee corporation. That I say was the situation when P.C. 1665 was first published.

However, immediately certain practical problems were recognized and it was felt that something had to be done. For example, the managers or the directors of the corporation had been evacuated, or were to be evacuated. In some cases the employees of the corporation had been evacuated.

In addition to that there was another disturbing feature which entered into the picture. It was, as you, I believe sir know, the original intention to remove the Japanese person from his home to some place outside the protected area. It was not possible to do that in many cases in one move, and as a consequence he was brought in to Hastings Park, and as you know Hastings Park remained open five, six or seven months, and the Japanese, residing in Hastings Park, was in somewhat of a doubtful status as far as the office was concerned.

He was removed from his home. Was he evacuated or was he only to be evacuated after he had crossed the Eastern boundary of the protected area?

There was some doubt in the minds of the Custodian's

at that time in that regard but while that attitude existed there was no doubt that the legal entity of the company in which he was interested still existed; and in many cases there was no one to administer that corporation.

Now just before I bring that particular point to a conclusion, I would like to say, sir, that also in those exclusions under P.C. 1665, was the exclusion of deposits of money or cash which did not automatically vest in the Custodian; and therefore it was realized that there was the possibility of all the liquid assets being taken out of the protected area; and there was the possibility of creditors' interest being disregarded. That was realized quite in the early days.

At a later time when notices were published calling for claims to be filed -- I have not the exact number -- but literally thousands of claims were filed with the Custodian's office for creditors of individuals and of corporations.

It was because of this situation that in those very early days an amendment was asked for by those operating the Vancouver office to give some clarification.

The amendment of course was P.C. 2483 of which your lordship has full knowledge but there is something which perhaps has not been pointed out -- that amendment followed 23 days after P.C. 1665 indicating it was immediately recognized that some clarification was necessary; and in the amendment 2483 the Custodian

was given discretionary powers under which all, or any property might be vested. That is to say it was possible therefore to vest properties which were among the exceptions under Order-in-Council 1665, and it was possible alsop to vest -- irrespedtive of whether the Japanese owner had been evacuated or not. The section in the amendment sir, clause 12, subsection 2, " The Custodian may, not withstanding anything contained in this regulation order that all or any property whatsoever be vested in the Custodian", and once he did so then the trading with the enemy corporations became applicable. Clause 3 says, "For the purpose of control and management. . . . . .".

So it is true to say before the passing of 2483, under 1665 the Custodian did not consider he had authority to deal with corporations in any sense, but with the passing of the amendment he now considered he could, if he so desired take control of the corporation.

THE COMMISSIONER:Q:Whether enemy owned or not.

A Whether enemy owned or not.

MR. McPHERSON: Just so that there will be no confusion in the mind of your lordship, or in the record, I think that Mr. Shears has now explained, if there was an enemy interest or an evacuee interest the Custodian might take possession of the evacuee interest regardless of that.

THE WITNESS: Yes, I was coming to that, But at that time the custodian did not take over the corporation by

vesting the corporation as such, but by vesting the shares.

I think perhaps I should now indicate some reasons why the Custodian did use that discretionary power: And one of the reasons was this, that if there were -- if there was an enemy interest in what we are terming an evacuee company, the Custodian might for the purpose of protecting the enemy interest, (and our enemy section, as we call it,), -- he might have stepped in and brought some control to bear on that particular company. If there was an enemy share interest, discretionary powers were sometimes used, and the shares were vested.

If there was a creditor interest, and it appeared that the creditors were not satisfied, or their interests were in jeopardy, that would be another reason why the shares might be vested; and another reason was if the shareholders themselves requested the Custodian to take over, and turn over their company (and that happened in some cases) -- it was found I believe inone at least, if not more of the individual claims that were presented later where that situation did arise, and in those cases the shares would be vested for the protection of the shareholders themselves.

And then of course, there is the overall reason, if the Custodian exercised his right to do so, and it appears under the Order-in-Council he has the sole discretion -- if he so chose he could vest the shares of an evacuee corporation.

THE COMMISSIONER: In practice, what did you do, Mr. Shears?in the instance where there was a minority enemy shareholding. Did you simply take the shares, or did youtake any action with regard to the corporate assets as such?

A It varied. In some cases no action was taken and in some cases action was taken. I could say in the early days, even after the passing of the amendmant 2483, the Custodian did not take control at all.

One reason has been indicated before -- the very volume of the work itself but the real reason in the early days that the Custodian did not as a general rule attempt to take control would be for such reasons as these: The directors themselves in many cases were still here and were operating their company, and this sometimes was happening for a continuing number of months before they were finally evacuated. In other cases the company arranged with their legal advisors or others, to take control of their company, and there were cases in which the company themselves changed their Japanese directorate and replaced them by other persons; and in those cases, generally speaking in the early days, the Custodian took no action under the amendment 2483 -- he took no action. I think it would be correct to say that the Custodian did not vest the shares in the company -- in an evacuee company if there were no enemy interests a t all. He did not vest the shares in an evacuee company if there were no creditors. He did not vest if it had not

been turned over to him.

Q When you used the term "vest", you mean interfere in any way? A. Yes, and he did not vest the shares at that time or interfere, if arrangements had been made by the company itself.

I think I need only say now, sir, that where the Custodian did take control, you would be interested in knowing the method by which he did so.

Without a doubt, in the hearings in the individual cases, the firm of P.S.Ross & Sons, will be frequently mentioned, and I think it may be desirable for me to give a little background of the reason why that firm was brought into the picture.

In 1939, at the outbreak of war with Germany, the Deputy Custodian contacted a member of the firm of P.S.Ross & Sons of Montreal -- a firm of wide general business experience, and a firm which had carried on a great deal of administration and liquidation work. The purpose of approaching them was to ask for their assistance at that time in locating enemy assets of all kinds, and they contacted investigations sometimes of an international nature, and they did actually administer on behalf of the Custodian, a large number of properties -- some of them very large and others just a small corporation. And it was because of this that when a similar problem presented itself after Pearl Harbour, and a problem which ooncentrated itself in British Columbia, and where there were enemy assets to be located and dealt with it was only logical that this

particular firm, which their background, of experience, should be used in the situation which developed out here, and absolutely a day or two after Pearl Harbour a partner of that firm and some Custodian officials came to Vancouver.

The firm of Frederick Field & Company had been the representatives of P.S.Ross & Company for over 25 years, I believe and in consultation at that time P. S. Ross & Sons and their agents were asked to investigate enemy companies and they did seize enemy companies and dealt with them.

And then with the question of non-enemies and their property being handled by the Custodian, it seemed to be the logical step to retain and use the services of these people with their background and experience. And as a matter of fact the firm of P.S.Ross & Sons actually set up the evacuee section of the Vancouver office.

Now sir, I think I need only outline the actual steps that were taken in regard to evacuee companies.

As you can appreciate, the first thing required would be to obtain the facts, and for this purpose what was called an inspection order was prepared. It is just a few lines. "The appointment of an inspector " " The Secretary of State . . . . . and such information ". That perhaps you would like to have filed as an exhibit.

MR. McPHERSON: Before filing this as an exhibit, I would like to point out first that Mr. Shears will

be putting in four or five of these exhibits, and some of them will be much longer than others. It can be filed. We had purposely left blanks rather than putting in the name of any company.

THE COMMISSIONER: You can tell me whether it will be helpful at all.

MR. McPHERSON: I don't think he needs to read them verbatim. I think counsel are familiar with the forms.

THE COMMISSIONER: It is open to them to cross-examine on them.

MR. McPHERSON: I might point out that these are simply bonds and were drafted in Ottawa by various people and these are simply forms. I would like to file these as sample forms.

THE SECRETARY: That will be Exhibit 55.

THE COMMISSIONER: No, we are not giving them the same numbers. We will give a new number for them in the corporate claims. This will be Exhibit 1.

(DOCUMENT MARKED GENERAL C.C.1 EXHIBIT)

THE WITNESS: Following the appointment of an inspector, a report was received from the inspector -- sometimes a formal report and in some cases merely by letter, in which recommendations were usually made.

In some cases the recommendation was that no steps at all appeared to be necessary. In other cases the recommendation was that further supervision might be necessary: that some enemy interests had been discovered and that there was a possibility of creditor interest. And in that case they would suggest perhaps that a controlling order should be

issued. But if the facts were such that at that time supervision was all that might reasonably be required, a supervisor was appointed; and the gist of it was that he was appointed with full power to supervise the operations of the business, in all matters referring thereto and without restrictions -- such as examining the books and statements -- auditing the books and taking control of banking arrangements in such a manner as might appear to the supervisor to be necessary. That is the supervisory order.

(DOCUMENT MARKED EXHIBIT GENERAL C.C.2)

THE WITNESS: If however, the results of the inspection were such that the recommendation was that more direct control should be taken for such reasons as I have mentioned (there being an enemy interest or a creditor interest) in that case what we term a control order was issued.

There were a few cases where there was a straight control order, but I believe in the individual cases that will be heard the control order also gave the power to the controller -- such powers as are exercisable by a liquidator, and the form of the appointment, which need not go into the record, but I will read it quickly. (Reading same).

THE COMMISSIONER: That will go in as Exhibit 3.

(DOCUMENT MARKED GENERAL EXHIBIT C.C.3)

MR. McPHERSON: My lord, I would prefer that Mr. Shears should put in the vesting of the shares as Exhibit 3, and that one later -- if you will just hold that for a moment -- the vesting of the share interest.

(DOCUMENT WITHDRAWN AS AN EXHIBIT)

THE WITNESS: The usual method adopted by the Custodian before using the power of a controller to liquidate or the actual vesting of the shares -- the vesting of the interest of the shareholders -- and the form used for that purpose -- I would like to read this one if you please. (Reading same).

That particular form of vesting varied slightly according to the particular details of the company which was being dealt with. That is to say this always appeared but in some cases there may have been an extra clause or so included.

THE COMMISSIONER: Well that will now be exhibit 3.

(DOCUMENT MARKED GENERAL EXHIBIT C.C.3)

THE COMMISSIONER: And the control order will be Exhibit 4.

MR. McPHERSON: Yes, the control order is Exhibit 4.

(DOCUMENT MARKED GENERAL EXHIBIT C.C.4)

THE WITNESS: Then really at this stage, with the controller with the powers of liquidator, the Custodian stood back at least, and further matters of administration and liquidation were carried on by the person appointed.

I think I should just indicate that although the firm of P.S.Ross & Sons and Frederick Field had been mentioned, and they did in fact handle the majority of the corporation cases, there were a few exceptions and there will be at least one case coming before you where the firm of George A. Touche & Company , of Victoria handled the matter of liquidation, but in that case the same general

procedure was followed.

THE COMMISSIONER: Well now just what was the relationship then between the Custodian and the controller so appointed. Did the controller report to the Custodian from time to time or did he go ahead and operate entirely on his own?

A No sir, he reported from time to time, with his recommendations, and those recommendations were considered and usually, from the recommendations of the person appointed, the Custodian approved of his action.

Q Or his recommendations?

A Or his recommendations, rather.

Q All right, proceed.

A I think that is all.

MR. McPHERSON: Q; Mr. Shears, just before we close the direct examination, you have mentioned the firm of P.S.Ross & Sons, acted for the Custodian as early as 1939. Do you know whether or not, from 1939, until the evacuation, they conducted any large liquidations or had any definite experience in the liquidation of companies?

A That is my understanding, but they were mostly eastern companies, but they did liquidate many large companies.

MR. McPHERSON: That is all, my lord.

THE COMMISSIONER: Well, would it be convenient to break off at this time. Mr. McLennan's cross-examination is likely to be lengthy. Is that not right, Mr. McLennan?

MR. McLENNAN: Yes, it is likely to take quite a little while.

THE COMMISSIONER: Since we are in such close quarters, I would ask you not to smoke in this room, you may smoke in the corridor.

(PROCEEDINGS RESUMED AFTER SHORT RECESS)

THE COMMISSIONER: Yes, Mr. McLennan.

CROSS EXAMINATION BY MR. McLENNAN:

Q When did you join the Custodian's staff first?

A The 1st of April, 1942.

Q And what was your position at that time?

A Just an ordinary employee in the office.

Q And did your duties involve anything to do with corporations at that time?

A Not at that time.

Q And you are now Manager of the Custodian's office?

A Director.

Q And when did you become a director?

A Acting Director on the 1st of January 1943, and Director on the 1st of June, 1943.

Q And when was the first you had anything to do with corporations?

A Well, during the arbitrary passing of P.C. 1649 (?) in the early part of January 1943.

Q You told us today, Mr. Shears, that the Custodian's office was organized to deal with enemy assets and with residents of Japan. How did you consider Japanese residents of the United States -- did you

consider them as enemies? A. Not unless they were interned.

Q And if they were interned there they would be enemies here? A. They would be enemies here, yes.

Q And after P.C. 1665 was passed, while it was felt the Custodian had not the power to do anything with the corporation assets, it was felt, I think you told us, that something had to be done, and the Custodian's department stepped in to fill the breach, is that it?

A Well, he desired some amendments to be made, which would perhaps give him power to step in.

Q And the Custodian's office was acting as an agent of necessity at that time, isn't that so?

A It felt it had a responsibility.

MR. McPHERSON: Before Mr. Shears answers that question, I don't think there is any question of agency involved here. Mr. Shears has explained the legal position, and the Custodian was acting under the amendment. There were only 22 days between the Order-in-Council and the amending order.

MR. McLENNAN: Q; Under the amending Order-in-Council 2483, Mr. Shears, if a man were able to take the company's shares with him, then the company's shares were not to be vested. Isn't that so?

A I would not like to answer that.

Q Well, it is right in the Order-in-Council .

THE COMMISSIONER: Is that not a matter of interpretation?

MR. McLENNAN: Except that Mr. Shears says that it was

by reason of that amendment he took possession of his shares.

THE COMMISSIONER: Well, it is just as well to find out what was done, and then if you wish to attack the Order-in-Council --

MR. McLENNAN: Q; Were shares vested under order 2483? where the shares were in a vested area or not?

THE COMMISSIONER: What are you referring to?-- the inciters of the shares -- being the registered shares of the company -- or the share certificates.

MR. McPHERSON: There are many legal decisions on the Custodian of shares, and some of them have just been handed down in Ottawa and unless Mr. McLennan will confine his remarks to the physical location of the paper --

THE COMMISSIONER: I would like you to confineyour cross examination to this aspect of it: What in fact was done ? Mr. Shears, I do not suppose considers himself qualified, for a moment, to pass upon the interpretiation of an Order -in-Council.

MR. McLENNAN: No, my lord, I did not intend to ask him that.

Q Mr. Shears what was done when shares were vested?

A The vesting certificate that I have read was issued and the shares were transferred into the name of the Custodian.

Q And the old certificates were cancelled, or were they? A. The actual certificates? I am not aware whether they were cancelled or not.

Q You did not ask for the production of the former share certificates?

A I don't recollect that we did.

Q You said some shares -- the Custodian did not vest the shares , or interfere with the assets of a corporation if arrangements were made by the Company itself?

A That was true in the early days.

Q I have in mind a place where a company appointed a solicitor to collect its accounts receivable, and you would leave that in the hands of the solicitor to collect, did you?

A If that was the wish of the Japanese owner.

Q Of the Japanese company?

A Yes.

Q And if the solicitor wanted permission to take legal proceedings in order to collect, would you give it? A. That would be a matter which I would have to refer to Ottawa. I would not take upon myself the responsibility of giving thowe instructions.

Q Was permission ever given to your knowledge?

A For what.

Q For a solicitor representing a Japanese customer to collect the bills receivable?

A I think they might be told to take any action they would like to do.

Q Short of legal action, is that right?

MR. McPHERSON: This is certainly a question of detail --

the eight or nine companies that you will be hearing from only represent a small part that the Custodian handles, and I suggest if Mr. McLennan wants an answer to this question, Mr. Shears should be given an opportunity at lunch time or some other time to look into the records of the Custodian's office. For him to say it never happened is rather dangerous.

MR. McLENNAN: All right, I will put it this way.

Q If permission was ever given, it was very rare, isn't that true, Mr. Shears?

A That is perfectly true.

THE COMMISSIONER: That is permission to institute suit?

MR. McLENNAN: Yes, that is for collection of accounts.

THE COMMISSIONER: How does this line of cross-examination fall within the terms of reference in any way?

MR. McLENNAN: Well, this last question has a bearing on a direct claim I have in mind, where accounts receivable are being claimed within the terms of the Commission and I believe you gave a ruling on that in so far as the Custodian did not permit action to be taken by a solicitor, by an agent of the company when action was indicated -- and I think your lordship ruling goes so far as that and I am going to urge that those conditions should be included in the terms of reference.

THE COMMISSIONER: I don't recall the ruling.

MR. McPHERSON: I think your lordship made a ruling that the Custodian was not responsible for accounts receivable, and the case that Mr. McLennan is dealing with

a particular case and I don't like him to put into a record a statement which is not a corredt statement of fact.

THE COMMISSIONER: Is it a matter for me to consider at all. Should it not be considered in the individual claims.

MR. McLENNAN: Mr. Shears said the Custodian did not interfere where there were arrangements made for the company to look after its own affairs, and I am pointing out the Custodian did interfere by not giving permission to proceed.

MR. McPHERSON: I don't wish to be constantly interrupting, my lord, but I think this will be introduced in the particular cases, and I will point out that in that particular case the Custodian had already interfered before the accounts receivable question was ever raised.

THE COMMISSIONER: I think it would be much better to deal with these individual claims in the detail claims and not in a general way.

MR. McLENNAN: The only thing is I have no assurance that Mr. Shears will be available.

MR. McPHERSON: He is always available if my friend wishes to call him.

MR. McLENNAN: Will my friend produce Mr. Shears and these necessary witnesses for cross-examination of not to give evidence in chief?

THE COMMISSIONER: There is a difficulty that I thought might be overcome, following our discussion this morning --

I thought counsel might discuss the point between themselves, because I am pretty sure that government counsel has no desire to restrict the investigation in any way and certainly there has been no suggestion of it in the last eight months.

MR. McLENNAN: There has been nodifficulty up to date, but there is always a possibility that there may be.

THE COMMISSIONER: You are rather fearful of Mr. McPherson?

MR. McPHERSON: Just to make my friend happy in this particular case, I will give him my assurance that I will call Mr. Shears in that particular case.- well probably not Mr. Shears, because he has the facts wrong. The facts were written by a Mr. Ray of Frederick Fields Company and I will undertake to call Mr. Ray and he can get that information from him.

THE COMMISSIONER: Does that make you happier, Mr. McLennan?

MR. McLENNAN: Yes, my lord.

Q Mr. Shears, in some cases after the appointment of a controller, the controller continued to control the company for a number of years and then was later discharged without liquidating, is that right?

A He receeived a discharge , yes.

Q And subsequently another order was made appointing him liquidator again.

A He was appointed liquidator to wind up the company.

Q Well, what was the reason for that if he had power under Exhibit No. 4?

A Well, there again it is a matter of legal interpretation.

Q It was not because Exhibit 4 did not give the power of liquidation?

A No, I would not say that by any means.

MR. McPHERSON: If it would assist Mr. McLennan and the other counsel, I would be quite prepared to produce the Order-in-Counil he is referring to. I did not put it in, because I did not think it had any value -- regarding the value of War Assets, but I am quite willing to put in the document he refers to. The appointment was to wind up the company itself -- to surrender the charter , and advertise for creditors and comply with the probincial law and in order to complete his duties, he was appointed to wind up the charter and surrender it. If that is the point my learned friend is speaking of, I will give him that information.

MR. McLENNAN: I think it is material.

THE COMMISSIONER: What do you call the document?

MR. McPHERSON: It is the appointment to wind up -- winding up proceedings.

THE COMMISSIONER: Well then that goes in as a government document.

(DOCUMENT MARKED EXHIBIT GENERAL C.C.No.5)

MR. McLENNAN: Q : M r. Shears, as I understand your evidence the inspector was first appointed to make preliminary investigation and recommendations?

A Yes.

Q And was it the policy of the Custodian's office to encourage the Japanese shareholders to dispose of their assets?

A. It was the policy

of the Custodian to encourage the Japanese, prior to their evacuation, to dispose of their assets if they so wished, and I think it would apply in the case of corporations as well.

Q And presumably the inspector was instructed accordingly?

A I don't recollect any specific instructions along that line.

Q And were there any instructions given to the inspector to discuss with the Japanese-Canadians the possibility of continuing operations?

A I don't recollect any specific instructions.

Q Did the inspector, in fact, have any machinery for operating the businesses?

A No.

Q And the Custodian's office informed the Japanese, did it, that they should make their own arrangements if they could, if they wanted to carry on the business? A. I think that might be a fair statement.

Q At the same time they were instructed that they would be under the supervision of the Custodian in any arrangements that they might make?

A How do you mean?

Q If a Japanese -- we will call it a Japanese company -- wanted to make arrangements for a sale, for the leasing of its business, it would be subject to the control and authorization of the Custodian's office, would it not? A. No, I don't think I would say that.

Q The Custodian made a practice of enjoining in convey-

ances, did he? A. In some cases he did in order to get title.

Q Why was that considered necessary?

A There again I am afraid that might have a legal angle which I would not wish to say anything about.

Q And in most cases, even where the Japanese made his own arrangements, and signed his own conveyances, the Custodian enjoined in the conveyances?

A Not always.

Q Generally? A. Generally speaking, yes.

MR. McPHERSON: Is this cross examination restricted to corporations or are we speaking of personal cases?

MR. MCLENNAN: I am talking of personal cases.

THE COMMISSIONER: And I take it this line of cross-examination is limited to cases where the Japanese made a sale of his corporate assets and was about to complete it, and he signed the conveyance and the Custodian enjoined in it.

MR. McLENNAN: Yes.

Q And that policy of the Custodian, enjoining in the conveyance, applied from the very beginning, did it not? A. It is not always done.

Q When was it started?

A I could not give you any date.

Q As a matter of fact the same policy was in effect in connection with partnerships and individual persons, was it not?

A Well, as I have already indicated that was their general

policy, but there were times when the Custodian did not give title.

Q And when the inspector was appointed his duty -- or one of his duties was to make an inventory and inspect? A. His duty as fara as we were concerned was to inspect and make his report and recommendations.

Q And he was to inspect all properties in which that particular Japanese organization was interested, or had an interest?

A He was asked to inspect the books and documents.

Q And the physical assets. Was it not the policy to make an inventory of the physical assets?

A Not at that time.

Q When did such a policy come into being?

A That depended upon the recommendations which the inspector or supervisor made.

Q And how long a time might elapse between the recommendation, showing that an inventory was necessary, and the time of taking the inventory?

A That would depend upon the time when the control order was issued.

Q The inventory would be taken as soon as possible after the issuing of the control order, is that so?

A I think that is a question for the controller himself. He would be in a better position to answer that.

Q All right. There were some cases, were there not, were a controller was appointed the liquidator and yet the shares were never vested in him?

A There were some cases where he was appointed controller prior to the shares being vested.

Q And there were some cases up until 1946, we will say, where the shares were never vested --

THE COMMISSIONER: In the controller.

MR. McLENNAN: In the controller.

THE WITNESS: I am not sure. They were vested in some cases subsequent to the control order.

Q Do you know of any reason why they were not vested in the controller if such an occasion developed?

A Yes, I think the individual cases will show the reason.

MR. McPHERSON: Just for the record -- they were never vested in the controller.

THE WITNESS: I meant the Custodian.

MR. McLENNAN: Q: In some cases they were never vested in the Custodian, you know that?

A No, that isn't right. They were always vested in the Custodian.

Q And you told us, that being vested in the Custodian meant issuing new shares certificates in the name of the Custodian?

A Yes.

Q I suggest to you for at least three years after 1942, there were some companies in which the shares were never vested in the Custodian. What do you say to that? A. What time?

Q Say three years after the evacuation began in 1942 -- up to 1945? A. Well, it would

surely depend on the individual cases. In some cases we did not liquidate ~~until~~ until 1944.

MR. McPHERSON: My lord, I do not like to interrupt my friend's cross-examination, but I do not know what this particular case has to do with what we are concerned with. I am going to adduce evidence to show that the government acted in a legal and proper manner and if he has any reason in saying that was not the case, let him bring the evidence at the proper time.

THE COMMISSIONER. Isn't that so, Mr. McLennan -- you can bring it up at the proper time.

MR. McLENNAN: Well I just wanted to find out what the policy was of the Custodian's office.

THE COMMISSIONER: Well then, just confine yourself to what the policy was, otherwise I am sure we are going to get into difficulties if we start in to investigate individual claims while we are on evidence of this general character, but if you feel it has some bearing on the general feature of it, I would like you to state your position.

MR. McLENNAN: I had some particular questions to ask about inspection and timber cruising and so on and was going to ask Mr. Shears to say what their policy was on this, but that won't be necessary if my learned friend is going to call certain witnesses -- that is in the case I had in mind, but it will be necessary if he is not. I have asked my friend for an undertaking already that he will call such witnesses that are necessary

but he has not yet given me that undertaking.

THE COMMISSIONER: Very well, I will clear up this difficulty now. I will call him as my witness and then he is subject to attack by both of you.

MR. McLENNAN: Well that is very nice of you.

Q Mr. Shears, do you happen to know if the timber controller in 1942 and 1943 was pressing for the sale of timber lands and timber berths held by Japanese companies?

A There was correspondence which we had from the timber controller.

Q Yes, how did that come about?

A I don't recollect what the first step was.

Q You don't know?

A Well, I don't recollect.

THE COMMISSIONER: Q; Can you produce the correspondence?

A Yes, sir.

MR. McPHERSON: My lord, it has been produced in the individual cases, and that is what Mr. McLennan is basing his cross-examination on.

MR. McLENNAN: Q: The Custodian as a matter of fact was anxious to have the timber controller request a sale, was he not, Mr. Shears?

A I certainly don't recollect that.

Q Wasn't it felt by the Custodian's office it would simplify the timber controller's office quite a bit if the timber owner would make such a request?

A Not so far as I am aware.

Q You are not aware of that?

A No.

Q It was a fact, was it not, Mr. Shears, that the Custodian's office often had to press the timber controller to get such a letter?

MR. McPHERSON: My lord, Mr. Shears has already said he does not know.

THE COMMISSIONER: Well I would like an answer to the question from Mr. Shears. The suggestion is on occasions the Custodian's office pressed the timber controller to request timber be sold?

A That is not my understanding of the ordinary events at all.

MR. McLENNAN: If your lordship will pardon me a moment.

THE COMMISSIONER: Yes.

Mr. McLENNAN: My lord, I asked my friend over the week-end to produce all the documents that were filed and there is one letter I am waiting to get -- and I would like to put that in at a later time. It has a bearing on this question.

THE COMMISSIONER: Very well.

MR. McLENNAN: Q; Mr. Shears, in taking inventories of Japanese companies, were there discrepancies between the Japanese valuation of the assets of sawmill equipment, we will say and the Custodian's appraisers valuations and sometimes another valuator would be called in?

A We did not take inventories. The Custodian did not take valuations of corporations. It was done always by the controller.

Q And you don't know what policy he followed?

A What is the question?

Q You don't know what policy he followed in getting independent valuations?

A I know he did get independent valuations.

Q And sometimes when there was a discrepancy between the Japanese valuation and his first valuation he would get in a second valuator?

A Yes, sometimes the controller has called in another valuator.

Q Sometimes the Custodian has called in a valuator to check, isn't that so?

A I think that is a question that the controller himself should answer.

THE COMMISSIONER: Q: Well, was there any interference by the Custodian's office with the administration of any property by a controller?

A Not at all, sir; not during the time it was under his control.

MR. McLENNAN: Q: You told us in your examination in chief, I think, Mr. Shears, that the procedure was to get a recommendation from the controller, and for the controller to get your approval as to what he wanted to do? A. That is right.

Q Well, was it the procedure of the controller to recommend the valuations or did the Custodian's office direct the valuations?

A No, the Custodian's office did not direct the valuations.

Q So the Custodian's office took no steps as to what the controller was doing in making valuations?

A I don't recollect that he did. He relied on the responsibility and experience of the controller that had been appointed.

Q But the controller was following the Custodian's directions, wasn't he?

A He had been appointed as a controller with certain powers.

Q Yes. To make recommendations, and if the Custodian's office approved the Custodian would give authority to carry out those recommendations, isn't that so?

A That is generally speaking true.

THE COMMISSIONER: Mr. Shears, how do you reconcile your last answer with your answer to me that the Custodian's office did not interefere with the administration of a controller. How do you reconcile those two answers.

A We did not interfere with the methods he was adopting and when he made his final recommendations to us at that stage we either approved or otherwise.

MR. M cLENNAN: Q: Mr. Shears, usually the assets of a corporation were advertised for sale by tender. Was it by tender? A. By the controller.

Q You had nothing to do with the advertising?

A Not in any direct way, no.

Q Did you specify, or direct in what way they should be advertised, or whether they should be advertised?

A I don't think that was done.

Q And you don't know what was done by the controller in regard to advertising? A. Yes they

reported fully what was done.

Q Did the Custodian ever instruct so many insertions in a certain paper?

A I don't recollect.

Q That was just left to the controller's discretion, was it? A. Yes.

Q Was there any advertising inserted in the B.C.Lumberman, with regard to sawmills?

A I think there were certain cases, but I don't know the cases. I know trade journals were used in some cases.

Q And where trade journals were used I suppose it was felt that people who were interested in that particular equipment would be reading those trade journals. A. That would be a fair inference.

Q Well then, why weren't those trade journals always used for similar equipment?

A That maybe a question for the controller to give his reasons for.

Q Were there difficulties encountered from time to time after tenders were accepted by the Custodian, where the advertisement called for "No warranties" by the Custodian, and then the purchaser wanted warranties? A. I can recollect -- the policy of the Custodian was not to give any warranties, but I can recollect one case -- it just escaped me -- where a limited warranty was given. I can only recollect one case. There may have been

more.

Q Was it the policy of the Custodian's office , where warranties were wanted in those cases, to agree to give back a certain amount of money to the purchaser if the title should prove defective?

A That was not the general policy at all. It may be that is the one case which I had in mind to which you are referring.

Q And do you know in that case that you have in mind, or do you not, that/the specified refunds exceeded the valuation of the Custodian's appraiser or the controller's appraiser? A. I am afraid I could not answer that without referring to the files.

Q If in fact the refunds agreed to be made in respect of a certain chattel exceeded the cost of the appraisal value -- do you know why the refund price should be exceeded to the purchaser ?

THE COMMISSIONER: I am afraid your question is not very clear to me and it may not be to the witness.

MR. McLENNAN: Probably not, my lord.

Q I am suggesting to you that in at least one case the Custodian entered into an agreement whereby he agreed to refund to the purchaser a certain moneys in the event that it should prove in future that the Custodian had no title to transfer: in other words that the property did not belong to the Japanese company. Are you aware in that one case there was such an agreement?

A There was an agreement as I mentioned before, but I

not recollect all the details of it. It was an individual case.

Q Well if in such a case the amount to be refunded to the purchaser exceeded the valuation of the chattels, can you give me any reason for it?

THE COMMISSIONER: That is the controller's valuation?

MR. McLENNAN: That is the appraiser's valuation.

THE COMMISSIONER: It sounds like something for nothing, to me.

THE WITNESS: I really could not say. I would have to look at the file. I know there was one case where the Custodian gave some warranties under certain conditions -- under a certain set of circumstances.

THE COMMISSIONER: The question relates to a matter of refund and the suggestion is that the Custodian agreed to refund more money than the appraised value called for, if I understood your question rightly.

MR. McLENNAN: That is right.

THE WITNESS: Well I don't recollect that is so. That is all I can say, sir.

Q You have no such recollection?

A No, sir.

THE COMMISSIONER: Q; Since you have put the question, I would suggest that you investigate the particular case and let us investigate it. It does not make sense to me that the Custodian would a gree to pay back more than the appraised value of the goods. If there is such a case you might let us know about it.

MR. McLENNAN: It occurs in the Royston Lumber Company's

case where there is a schedule annexed to the agreement -- that is an agreement dated the 31st of May,1943 between the Royston Lumber Company as vendor and Somerset (?) as purchaser , and clause 7 of that agreement says as follows: "In the event of the vendor being unable to produce a good title to all the said property at or about the time of the completion of the purchase. . . . . .and any damage by breach of the warranty in schedule C shall be based on and not exceed the respective value of said chattels set forth in schedule C ". I would like my friend to produce the valuation and the chart which I asked him for before.

MR. McPHERSON: My lord, I have nothing on the Royston Lumber Company here. That case is coming up on Wednesday or Thursday, and I never expected that it would be asked for.

THE COMMISSIONER: There again might we not save this matter for when the Royston case comes up. Would it not suit you just as well.

MR. McLENNAN: It would, as long as the particular individual is called to explain this.

THE COMMISSIONER: I have already said if there is going to be any difficulty in regard to a witness being called, I will call him myself as a witness and he will be open to cross examination by both counsel.

MR. McLENNAN: Under the circumstances I think I can let that phase of the matter drop. I have no further

questions.

CROSS EXAMINATION BY MR. McMASTER:

Q Mr. Shears, I understood from your evidence the normal procedure was; firstly, the custodian ' s office took the view that they were not to deal with corporate assets? A. They had nothing to do with them.

Q And then they appointed an inspector after the passing of P.C. 1665? A. Where it appeared to be desirable.

Q And that inspector would not have any right to interfere with the operation or the business of a corporation or dealing with its assets at any time? A. Not at that time.

Q Well, not at any time. Would the inspector have any right at any time?

A Not as an inspector, no.

Q And then he made a report and in some cases the supervisor was appointed?

A Yes.

Q Now the supervisor, what duties did he have?

A Well, it is all set out there.

Q In Exhibit No. 2? A. In Exhibit No. 2-- full power to supervise the operation of a business -- and all matter pertaining thereto and including power to enter upon the premises at any time, and examine the books and to prepare reports of the financial standing of the company. Now in fact did any person, or any company, or any partnership, acting

under those instructions of supervisors, did they in fact interfere with the operation of the business other than to admit and take stock and the various things named in that order?

A Not under their appointment as supervisor.

Q Now the next step was to vest the shares of the individual Japanese --

A Generally speaking, yes.

Q -- in the Custodian? A. Yes.

Q And you are unable to say whether a vesting order was issued in every case, is that right?

A A vesting order has been issued in every case, but I said there may have been a few cases -- but I am not sure of where they were not issued ~~but~~ by the controller, but there were reasons for it.

Q After the shares were vested the Custodian took the shares -- or did he appoint the controller --

A The controller was appointed under the enemy trading regulations.

Q Now let me put it this way. Was it at the point, where the shares were vested or was it the controller who was appointed first, that the Custodian interfered in the business of the corporation?

A My recollection is I would say yes. I cannot just think of any specific cases where the order was changed.

Q Was that the policy of the Custodian?

A It was the policy.

Q He did not interfere in the operation of the business

or in dealing with the assets until a vesting order was issued vesting the shares, or a controller was appointed? A. Generally speaking, yes.

Q Are you aware whether in fact the custodian's office in any way interfered with the operation of any of the businesses of these so-called operations prior to vesting orders being issued and controller's being appointed?

A I don't recollect any.

MR. McPHERSON: May I ask Mr. McMaster to explain what he means by "interfere". Before we get the facts before your lordship, we should know what "interfere" means, if it means writing letters or what.

MR. McMASTER: Well, I will put it this way.

Q Prior to the vesting order, or the order and the appointing of a controller, did the Custodian take any steps with regard to the operation of these Japanese businesses or corporation.

THE COMMISSIONER: Well that is a pretty broad order. If you have something specific in mind would it suit your purpose as well to put it to the witness in this way: did the Custodian do such and such.

MR. McMASTER: Well, I might be getting into individual cases again in that way. Perhaps I might do it in the terms of some of the operations.

THE COMMISSIONER: I think it wouldbe desirable if you approached it in that way.

MR. McMASTER:Q:Did the Custodian -- I am speaking now in this series of questions to you, Mr. Shears --about the periodprior to the shares being vested in

the Custodian or a controller order being issued by the Custodian. Now in the periodprior to that, in the Japanese operations, did the custodian in any manner deal with the accounts receivable of the corporations?

A I cannot recollect that he did.

Q Did the Custodian in any manner deal with the accounts payable -- with the creditors of the corporation? A. No, I don't recollect that he did that.

Q Did the Custodian require any person, who was appointed by the corporation, or who was an Occidental director of the corporation to supply any information concerning the operation of the corporation in the disposition of its assets?

A Yes.

MR. McMHERSON: This line of cross-examination does not seem to arise out of the examination in chief. If he is attempting to show that there was a depreciation in the assets he may have an action against the liquidators but he is now asking --

THE COMMISSIONER: I am not going to interfere with the cross examination at this stage. It may be going a little wide of the mark but it is better to err on that side than the other.

MR. McMASTER: QPrior to the time I am speaking of -- that is the vesting order in relation to shares are concerned -- or vesting control -- supposing

Occidental directors were appointed in a company, were those directors free to dispose of the assets of that corporation?

A I would say yes .

Q Without any necessity for advising the Custodian's office? A: As to the amount that they sold? But we did ask them to keep us informed.

Q Would the Custodian's office interfere if they did not consider it a fair amount?

A Not unless there was a specific reason -- if the creditors were not being taken care of for instance.

Q They might interfere in that case?

A Yes.

Q And these directors -- it might be a person acting under a power of attorney -- were they persons required to get the approval of the Custodian for any sale of the assets of the company before they could sell them?

A No, I don't think that was always the case.

Q Well, was it ever the case?

A There were some cases where we gave approval.

Q And was that at the request of the directors of the company, or was that on the demand of the Custodian? A. That was sometimes because the company themselves asked us to give some supervision.

Q And sometimes it was at the demand of the custodian from quite unwilling directors?

A I beg your pardon?

Q Sometimes it was not the wish of the directors to week the Custodian's approval, but the Custodian advised the directors they must get his approval?

A There were occasions when the situation seemed to develop and the Custodian requested that his approval be given before some action was taken or the sale completed.

THE COMMISSIONER: Well now, could you enlarge on your answer? For what weason would the Custodian interfere in the instances to which you refer?

Q Just on such grounds -- that he thought some grounds in which the Custodian was interested, were not being protected, and as I mentioned before the possibility of creditors not being taken care of. Generally speaking, the Custodian in those instances did not slip in and allow the company to make its own arrangements and sell at any price that was agreed on.

M R. McM ASTER: Q: Did the Dustodian take any interest in the protedtion of the assets of the corporation up to the time of the vesting of the shares or the appointment or a controller?

A No.

Q Was it the Custodian's policy to take any interest in what was done with those assets, in the terms of renting them or leasing them?

A It was not the Custodian's policy at all to interfere in corporations until such time as he came into the picture in vesting control --

Q What was the policy --

THE COMMISSIONER: Your previous line of cross-examination I take it relates to the appointment of directors by the Japanese owners?

MR. McMASTER: Yes, or an attorney, either in fact or in law.

THE COMMISSIONER: Appointed by the Japanese owners?

MR. McM ASTER: Yes.

THE COMMISSIONER: Well, you were getting started on another line of cross-examination?

MR.MCMASTER: Yes, I realize that and I have just forgotten what the question was.

Q Now, Mr. Shears, when a Japanese corporation had its own solicitor, was it the policy of the Custodian to use that solicitor as his agent, as for instance, for the purpose of collecting account or seeing that the creditors were paid?

A He did not use him as his agent. He just did not interfere.

Q Now do I take it from your answer that the Custodian took no interest in whether the creditors were paid or not? A. I don't think that is a fair question. He would take an interest.

Q On behalf of whom? A. Anything that was a Japanese interest, which we felt was not being properly protected.

Q When you came to the point of vesting shares in a Custodian, what would be the reasons for vesting the shares in the controller?

A For various reasons. I think I indicated them

previously. If it was discovered that there was an enemy interest in the corporation, or if it was discovered there were creditors. Those are the reasons why we would step in and vest and appoint a controller.

Q I suggest to you in some cases you stepped in and vested the shares and appointed a controller because you wished to compel the disposition of assets, and the directors would not dispose of them, or the shareholders would not co-operate with them in the disposition of them?

A I don't recollect any individual case.

THE COMMISSIONER: You will be a little longer I take it, Mr. McMaster.

MR. McMASTER: Yes, I shall be a little while longer, my lord.

THE COMMISSIONER: All right, we will adjourn now to 2.30.

(PROCEEDINGS ADJOURNED TO 2.30 p.m.)

I hereby certify the foregoing to be a true and accurate report of the said proceedings.

E. Bligh

Deputy Official Stenographer

(2:00 P.M. PROCEEDINGS RESUMED).

F. G. SHEARS, resumes stand:

CROSS-EXAMINATION BY MR. McMASTER:

Q Prior to the making of these vesting orders vesting shares in the Custodian or orders regarding Controllers, did the Custodian receive any information as to the assets of any of the corporations wasting or being stolen?

A I think there may have been occasions that was done.

Q When information came to the Custodian's attention, did he then immediately issue a Controlling Order or a Vesting Order?

A No. It may be that we got information regarding the assets wasting and we found the Japanese had already made arrangements for somebody to look after that.

Q And in that event, what did you do?

A I can't remember any specific instance, so I think I would rather not reply.

Q In any event, when you ascertained that fact, you didn't take any steps to vest the shares?

A No, not immediately. That would be likely a case in which we would appoint an inspector.

Q In a number of these cases, the vesting Order with respect to the shares was not made until 1944. You gave evidence this morning that the Custodian considered he had power to vest the shares under the amendment to Order P.C. 1665 made in the

spring of 1942. Can you explain why there was length of time lapsed before the Custodian deemed it necessary or advisable to vest the shares in himself? A: He had discretionary powers, and as I indicated this morning there were a number of cases where the operations of the company had been provided for. It was only as and when, under the discretionary powers which the Custodian had, he felt it was necessary for him to investigate, and as a result of the investigation, supervise or take control, that he did that thing.

Q What were the considerations that would determine when he would exercise that discretion?

A There was a possibility of enemy interests, possibility of creditors and any factor that might seem to be jeopardizing the position of the Japanese.

THE COMMISSIONER: The possibility of enemy interests, the possibility of creditors, and what?

A And anything that might seem to be jeopardizing the position of the Japanese.

MR. McPHERSON: My lord, I find the suggestion from this line of cross-examination rather interesting, that the Custodian apparently has a discretionary power as to whether or not he will vest. If he does vest, the Custodian will not deny responsibility for the assets he has control over. In the sense this line of cross-examination is trying to establish some responsibility for the disposal

of the assets before the Custodian had responsibility, I suggest cross-examination of this kind -- Mr. Shears should not be asked to give reasons why the Custodian exercised his discretion.

THE COMMISSIONER: Is this not a matter which should be dealt with when the individal corporate claim is presented?

MR. McMASTER: My lord, frankly I shall seek to establish the fact that the Custodian assumed the control or supervision of the assets of these corporations, or some of these corporations, considerably prior to the vesting of the shares in the Custodian.

THE COMMISSIONER: That is the point of my question. Is it not desirable that these matters should be investigated at the time the corporate claim is heard rather than in the course of this general statement from the Custodian's Office as to how he proceeded?

MR. McMASTER: I was cross-examining on the statements as to how he proceeded, but I am prepared to pursue it in the individual cases.

THE COMMISSIONER: I do not see how you are going to get anything of much help, because obviously Mr. Shears' answer to all questions of this kind must be "The Custodian exercised discretion because of certain peculiarities applicable to that particular case".

MR. McMASTER: Those are the circumstances - if it wasn't a matter of the general policy, I would agree.

THE COMMISSIONER: It is very clear from my understand-

ing of Mr. Shears' evidence that he is not attempting to deal with policy as applied to a particular case.

Q Am I right in that, Mr. Shears?

A Yes, my lord.

Q That there was a broad over-all policy which had application to most if not all corporate matters?

A That is correct.

Q And then there was a policy adopted depending on the circumstances of each case?

A Yes. I might say that in the case of these corporations there seemed to be a variety of circumstances that did apply.

THE COMMISSIONER: That, perhaps, will meet your difficulty, Mr. McMaste. You are not losing anything by failing to pursue these things here at this stage. However, I do not want to stop you. If there is anything of a general character that you think is likely to be helpful, you are entirely free to proceed with your cross-examination.

MR. McMASTER: Q: I would like to get at the point with this question. Was there any general policy with respect to the exercise of any discretion by the Custodian as to whether or not he would vest shares in a corporation?

A I think I can only reiterate that it was just as and when the circumstances of the case seemed to call for it, which was entirely in the discretion of the Custodian.

MR. BALDWIN: In Mr. Norris's unavoidable absence, I

appear, my lord. I haven't any questions, subject to this. On Saturday and this morning, my learned friend, Mr. McPherson, assured me there was no question in issue between us as to the ground of the examination and cross-examination today as to the assumption by the Custodian of control of the Deep Bay Logging Company, Limited, and he assures me that the Custodian admits the assumption of control in that case at the outset, that is early in 1942. If you will confirm that for the record now, I have nothing to add.

THECOMMISSIONER: Can you fix the date, Mr. McPherson?

MR. McPHERSON: Yes, my lord. On May 22nd, 1942, the Custodian appointed a supervisor and subsequently the Custodian liquidated the property. The Government will not put in a defence on any case that we didn't take over the property, and I think the Custodian did take over all the assets and dispose of them. I would like to feel sure that I am at liberty, if some facts come out that I haven't obtained yet, to make some change in the defence provided I can call Mr. Shears as a witness, in which Mr. Norris could cross-examine him.

THE COMMISSIONER: We are not bound strictly by Rules of Evidence in an investigation of this character, and that is why I said this morning when it was apparent that counsel were doing a little sparring, fearful that they might be at a disadvantage in consequence of anything done here, I said I would call a witness required by either side as my

witness and make him available for cross-examination. That, I think, ought to leave the door wide open to counsel for the Government and counsel for the Claimants, so that they would not be at any disadvantage.

MR. BALDWIN: Am I correct in assuming that my learned friend, Mr. McPherson, says that there is no conflict on the facts between us that the Custodian assumed control of the Deep Bay Logging Company as of the 22nd May, 1942, subject to his right, if he discovers something later, to call Mr. Shears?

THE COMMISSIONER: Yes.

MR. BALDWIN: And also, to our right to cross-examine Mr. Shears when he is recalled?

THE COMMISSIONER: That is quite clear now. I wonder if it would be helpful if, for the purpose of all concerned, you should make the disclosure now as to the time when the Custodian moved in relation to any of these corporate properties? In some instances it would be a matter of vesting the shares and in others the appointment of controllers, and so on. Or could that be done tomorrow?

MR. McPHERSON: I prefer to do it tomorrow. If I have an opportunity to look over Mr. Shears' notes, I would undertake to do it tomorrow.

THE COMMISSIONER: Do it in any case before we conclude this evidence of a general character, so that counsel may be advised what the Government's position is as to the date when it acted. I say

acted, because I don't want there to be any difference between vesting, appointment of supervisor or controller, and so on.

MR. McPHERSON: I think it happened that Mr. Norris's case is the only case where copies of the Vesting Certificates and those control orders have not been supplied to him up to the present time, but in the other cases counsel have had copies, but I am prepared to make a statement tomorrow outlining each case.

THE COMMISSIONER: Very well, as long as there is no room for question about anyone not being fully informed.

MR. BALDWIN: One other point, my lord. Evidence called on the individual corporate claims, for example, the cross-examination of any witnesses Mr. McPherson may call, it will apply in rebuttal to any evidence given here.

THE COMMISSIONER: I am afraid I do not follow you. I understand that all the evidence nowbeing taken of a general character,both in chief and on cross-examination, is to be made available at the hearing of the individual corporate claims to such purpose as either counsel desires to use it. Does that answer your question?

MR. BALDWIN: Yes, my lord.

THE COMMISSIONER: Is there any further cross-examination of Mr. Shears?

MR. McMASTER: No.

MR. McLENNAN: No.

THE COMMISSIONER: Any re-examination?

MR. McPHERSON: No.

MR. McMASTER: There is one point. I hadn't understood the position my friend was taking in the vesting of these cases. I would ask him to produce the correspondence referred to by my learned friend, Mr. Hunter, on the opening of these proceedings, which I understood relates to the question as to whether a proof(?) is provided in the Order-in-Council referred to. I have got not interest whatever in the opinions expressed in that correspondence.

THE COMMISSIONER: Let us understand what you are referring to? Is it the amendment to the Order-in-Council which deals with corporate claims?

MR. McMASTER: My lord, I am sorry, I haven't my transcript of the evidence of the previous proceedings here, but at that time we had some discussion as to whether corporate claims would be taken to be included in the Terms of Reference.

THE COMMISSIONER: That is my understanding, that Ottawa apparently thought not, but in any event ouf of abundance of caution they did expand the Terms of Reference to definitely include corporate claims.

MR. McMASTER: In respect of that discussion, my learned friend, Mr. Hunter, referred to correspondence which had transpired between the office of the Custodian here and the Custodian or Minister of Justice's office in Ottawa, in which the matter

had been discussed in 1942, I took it.

THE COMMISSIONER: I do not recall it.

MR. HUNTER: At that time, my lord, I said it had been a moot point and that the weight of opinion had been that corporations were not included in Order 1665 and the Order had been amended, and apparently my learned friend, Mr. McMaster, now wishes to have that correspondence. Personally?, I would refuse it. I don't intend to look up Mr. McMaster's law for him, or anything pertaining to it. I can't see that it has any relevancy to the Terms of Reference. If your lordship orders it, I will give it, but I think it is preposterous.

THE COMMISSIONER: It is correspondence of what nature?

MR. HUNTER: Correspondence between people in the Custodian's office here and at Ottawa, and other Government offices in Ottawa five years ago.

THE COMMISSIONER: Expressing one view or another as to whether corporate matters were included in 1665?

MR. HUNTER: Yes.

THE COMMISSIONER: That is, as to the extent of the powers?

MR. HUNTER: Yes, my lord.

THE COMMISSIONER: After all, it is my unfortunate duty to have to possibly pass upon this thing and the opinions of other gentlemen expressed five years ago are not going to be very helpful to me.

MR. McMASTER: I haven't an interest in the opinions expressed in these letters. What I have in mind is such correspondence may indicate the circum-

stances out of which the difference of opinion arose and indicate the position the Crown is taking, or might be helpful to the claimants now.

THE COMMISSIONER: I do not see that that correspondence can be held to bind the Crown, nor that it can be used by either Crown or claimants in the proceedings before me. As I say, it is going to be my task, in all probability, to decide how far 1665 went, and if the Government does not like the conclusion I reach, perhaps they will accept or reject my recommendations. But I willnot order the production of that correspondence.

Anything further?

MR. McMASTER: No, my lord.

(Witness aside).

GUY ERNEST HOLT, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McPHERSON:

Q Mr. Holt, you are a partner of P. S. Ross & Sons? A: I am.

Q And one of the senior partners, I understand.

A I am.

Q And your firm in Montreal has been carrying on extensive accounting work?

A We have been doing extensive accounting work, practical accounting, liquidation and re-organization over a period of many years.

Q The head office of your company is in Montreal?

A That is correct. We have branches in Ontario and

the Maritimes. We have correspondents throughout other provinces in Canada, in the cities of Winnipeg, Calgary and Vancouver.

Q Is Mr. Frederick Field, of Frederick Field & Company, Vancouver, your correspondent here?

A He isour correspondent here.

Q How long has he acted as your correspondent?

A For over 25 years, to my knowledge.

Q Mr. Shears referred to the employment of P.S. Ross & Sons early in the war for the purpose of doing Custodian work, and I wonder if you could inform his lordship as to the type of work you have done on behalf of the Custodian before the evacuation of the Japanese in British Columbia arose?

A We did considerable workfr for the Custodian. As a matter of fact, I personally was called to Ottawa a few days after the outbreak of war in 1939, and at that time was requested by the Under-Secretary of State, the Department of the Custodian, to immediately undertake investigation of a number of companies in and around Montreal, which work was undertaken the following day, and throughout the remaining part of 1939, 1940 and 1941, we did very considerable work for the Custodian, the nature of which was, first, making inspection of companies and reporting to the Custodian. Out of that we were appointed supervisors in some cases, and in other cases we were appointed controllers under the regulations regarding trading with the enemy, and in a number

of cases we liquidated and wound up companies both large and small. The work also involved assignments outside Canada on behalf of the Custodian, and when war broke out with Japan we again were requested by the Under-Secretary of State to proceed to Vancouver to undertake similar type of work and assist in setting up the office of the Custodian here. I believe that it was the same day or the day after that oneof my partners, who had been associated with me in the work down east, flew to Vancouver, and he was here the second or third day after war broke out with Japan, and in that work he had associated with him Mr. Field and his firm, Frederick Field & Company. The partner was here for a period of at least two months, getting the work under way. He then returned to Montreal and had not been back very long before the question of the evacuation of the Japanese and dealing with Japanese evacuees arose, and he was requested to return to Vancouver, which he did; and right throughout the work has been carried on out here by Mr. Field and his firm of Frederick Field & Company. The partner I referred to has been in close touch with the situation. We have had reports and, in addition, this partner has attended many meetings and interviews with officials in Ottawa.

Q You mentioned that your firm had a lot of experience in liquidation. Would you car to say whether or not the Custodian's policy followed

generally along the lines of what a liquidator would have followed, that is in disposing of assets by advertising and so on. Would you say the Custodian's policy had become well known to you and it followed a normal policy of liquidators? A: Yes, I would say it became well known to me and also three or four other partners of our firm in Montreal, who were also associated with me. I would further add that the methods and procedure followed by the Custodian were very similar to those followed in experience we have had in dealing with liquidations and winding up of companies.

THE COMMISSIONER: Q: Do I understand your views as to whether or not the liquidations as carried out under the Custodian's policy were such as to serve the best interests of the Japanese owners?

A I would say, sir, that in carrying out the liquidations -- I might be able to speak generally of what I know of the Custodian's work -- that the policy was to obtain the best prices possible and further, that the policy certain was in line with the policy any liquidator or trustees followed in the winding up of companies..

CROSS-EXAMINATION BY MR. McLENNAN:

Q In other words, Mr. Holt, you regarded yourselves as trustees?

A That is correct.

Q Who determined the adequacy of the advertising

of the business for sale?

A You are not now speaking of these particular cases here?

Q Yes. A: The Japanese property?

Q Yes. A: I can't answer from my own knolwedge who determined it. If I am permitted to speak in general terms, I will.

Q Well, was there any policy of P. S. Ross & Sons as to what advertising would be adequate and sufficient, and were any instructions given to Frederick Field & Company by you about it?

A No, I wouldn't say there were any written instructions given to Mr. Field. I would say undoubtedtly the matters were discussed with Frederick Field, and I would add that the policy that was followed was one that we followed in the east and also one that it was very common practice followed by us as liquidators of companies.

Q Where logging equipment and timber is being advertised for sale in eastern Canada, are the advertisements not inserted in lumber magazines and periodicals?

A That, I cannot say.

Q It seems reasonable it should be so, doesn't it?

A I would say it would depend on the size of the company. It would have some bearing, if I was the liquidator.

Q What bearing does the size of the company have on it? A: Well, one bearing

would be you look at the size of the company and find, to advertise in all these trade journals, to advertise extensively in the newspapers throughout the country, is a very, very costly thing, and whether or not the results that are obtained from it warrant it, I don't know, but I would say this, that insofar as any company we handled in the east is concerned in the winding up and liquidation, I have no knowledge that trade journals were ever used.

Q I would like to get clear what is a correspondent. Is that an agent? Mr. Field, being a correspondent, is he your British Columbia agent?

A No, I wouldn't say he was an agent. I would say this, that if we have work in the east which originates in the east and involves having the work done up here on the west coast, we would use the firm of Frederick Field & Company to do the work for us, and if that would constitute acting as agent, I would say Frederick Field acted as agent. We use the term representative.

MR. McMASTER: No questions, my lord.

CROSS-EXAMINATION BY MR. BALDWIN:

Q I understood you to say that in your position with P. S. Ross & Sons, you became familiar with the Custodian's policy in the east and on this coast.

Q I said we, as a firm, yes, particularly in the east.

Q I am not sure if I understood you correctly. Did you say that the Custodian's policy you found, after war broke out in 1939, was what you had found in your long experience to be standard policy with regard to windings up or liquidations?

A No, I didn't say it was standard. I said it conformed with the policy that we had used as a firm.

Q In peace time? A: That is correct.

Q In windings up and liquidations?

A That is correct. I can enlarge on that, if you wish.

Q It is true that in a winding up and a liquidation that is generally in the nature of a forced sale?

A Not necessarily.

Q Well, the majority of them,are, aren't they?

A Well, it could be, yes.

THE COMMISSIONER: Counsel does not want you to enlarge on it. I think I would like you to.

A What I had in mind was, I thought maybe it might be interesting with one very large company we handled on behalf of the Custodian. I would like to point out we first went into this particular company as inspectors to make an inspection for the Custodian, he presumably having some information that there might be an enemy interest. We made the investigation and reported. It followed, then, that we were appointed supervisors of that company and we completed our investigation, which took us right outside Canada, and during

that period we were making investigations, we were supervisors. On obtaining further information, further reports were made to the Custodian and we were appointed controllers. The staff of this very large company was kept on and it operated. Then it came to the point of liquidating and winding up, and we followed the policy which was the policy of the Custodian of advertising the assets for sale and calling for tenders, and so forth.

THE COMMISSIONER: In view of the question I put to the witness, do counsel wish to ask any further questions.

MR. McMASTER: Q: I think it would be helpful if Mr. Holt could outline the duties of inspectors, supervisors and controllers in liquidations.

A My understanding is this. I haven't read the orders for some time, so I am now speaking from my general knowledge of the situation. As an inspector we went in and inspected the company to find out whether or not there was an enemy interest, whether any debts were owing to Canadian nationals. Our report of whatever we found would be given to the Custodian. At that time, in all probability, we would give a general outline of position of the company as we saw it; that is to say, the financial position of the Company.

Assuming then, based on the report, we were appointed supervisors, during that period of supervision, if there were officers available, and in most cases in the east there were officers

available, the companies operations would be left on but we would be there as supervisor. One thing we would do would be to be sure we controlled all the cash by having joint signatures on the cheques for any outgoing money. The next period, which would be a period of control, there is some distinction, but not a great deal, as to supervision and control, except you would be more actively engaged, if the company was being carried on for the period.

THE COMMISSIONER: Q: If I might interject, if I understood you correctly, as a supervisor you would not necessarily interfere with or dictate company policy. A: Not necessarily, unless we thought that something they were doing was contrary to the best interests of the company itself.

Q Then, when the transfer from supervision to control occurs --

A Then you would have a period where you could say we would be more active in the management and control of the business.

THE CHAIRMAN: Anything further, Mr. McLennan?

MR. McLENNAN: No, my lord.

THE COMMISSIONER: Mr. McMaster?

MR. McMASTER: No, my lord.

THE COMMISSIONER: Any re-examination?

MR. McPHERSON: Yes.

RE-DIRECT EXAMINATION BY MR. McPHERSON:

Q The question of using Mr. Frederick Field or his firm was raised by Mr. McLennan. When you retained Mr. Frederick Field as your correspondent or agent, whatever you might call him, to do this work in Vancouver, would you have retained Frederick Field if you did not consider that in carrying out his duties he followed the general policy of P. S. Ross & Sons in Montreal followed?

A Definitely not. I would add that owing to our long association with Mr. Field in the carrying out of various types of work and assignments we have sent to him, we have the utmost and complete confidence in him.

Q The suggestion has been made here of forced liquidations. I think you will hear more on that; but I was wondering if you would care to express an opinion as to the ultimate aim of a liquidator.

A I would say I always get the best price obtainable.

Q Does it make any difference whether a forced liquidation or not as to the trustees' or liquidators' actions?

A No.

Q In your work for the Custodian, do you recall any case where the Custodian would make a price prior to such time as he would call for tenders and require goods?

THE COMMISSIONER: I think you had better clarify that.

MR. McPHERSON: Q: I wondered, following the policy outlined by Mr. Shears this morning of advertis-

ing, was it the custom or policy of the Custodian, as far as you know, to advertise assets for sale and call for tenders?

A Yes, in all large companies, definitely.

(Witness aside).

FREDERICK FIELD, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McPHERSON:

Q You are the senior partner of Frederick Field & Company, Vancouver?

A Yes.

Q And you are also representative in Vancouver of P. S. Ross & Sons, Montreal?

A Yes.

Q How long have you been practising your profession of chartered accountancy?

A I have been practising in Vancouver for the past 30 years and running my own company.

Q And in your experience as a practising chartered accountant, have you had any experience at all in the administration of trust assets and liquidation of companies?

A In my experience during the last 30 years, I have covered all kinds of businesses, including the administration of businesses, re-organization of businesses, the winding up of companies, and the operation of business generally.

Q Am I correct that for the past 16 years you have been a lecturer on accountancy at the University

of British Columbia?

A That is true. I have lectured in advanced accountancy at the University of British Columbia for the last 16 years.

Q And are you an official trustee of the Courts of British Columbia?

A I am.

Q Am I correct that you have been a past president of the Institute of Chartered Accountants?

A Yes.

Q Mr. Shears has given evidence this morning as to the policy of the Custodian's Office almost up to the time when an inspection order was issued, and I would like you to tell his lordship what you would do when the Custodian appointed you an Inspector. A: When we were appointed Inspectors, our first duty was to ascertain if there was any enemy interest in the company. This we would do by reference to the company's records, if they were available. We would refer to the company's bankers, if there were bankers available, and we would consult with the company's solicitors in all cases where there were company solicitors. We would endeavour to get a statement of the company's finances and a general picture of the company's operation. Based upon this investigation, we would make a report to the Custodian.

Q After you had made a report, would you make recommendations to the Custodian?

A We would make recommendations to the Custodian based on what we had found out as a result of our inspection. In some cases we would find out that the Japanese owners had made arrangements to run or carry on the company. In any such cases, in the absence of any enemy interest or creditor interest being placed in jeopardy, we would recommend those arrangements be confirmed. In cases where we found an enemy interest, or that the creditors of the company were such that the affairs of the company were in jeopardy, we would recommend to the Custodian either the appointment of a supervisor or a controller, depending on the circumstances of that particular case.

Q If the Custodian, after receiving your report, acted upon your recommendation and appointed controllers, would you take any definite steps with respect to the company itself, as to the protection of its assets, taking over control?

A The first thing we would do would be to notify the bankers we were in control of the funds. If the Japanese owners were still in Vancouver, or available, we would probably consult with them with a view, depending on the type of company, to the appointment of a watchman to safeguard the assets. In certain cases we would possibly -- what I mean to say is, in appointing a watchman, generally speaking, we appointed aman who was capable, if necessary, of checking up the state of the company holdings, and in certain cases we even hired a

watchman who was capable of checking the inventory that had been supplied to us in some cases by Japanese owners. We generally took control of the company, and in some cases we found the Japanese owners had already hired a watchman of their own. We investigated the particular watchman and, if satisfied, we allowed them to remain in place.

Q Now that you have taken control of that particular company, would you in operating the company, would you make investigations to see whether or not it was feasible to carry on the business; because up to this time you have not mentioned liquidation. Would you look into the question of operating the company?

A That would be contained, generally speaking, in our recommendations and report. In some of these companies, the Japanese employees had been evacuated and it was found that the continued operation of the company was quite difficult, due to the scarcity of labour in 1942 and 1943 and during the war years, and we would make recommendations to the Custodian that possibly the company should be wound up, or the business of the company should be wound up.

Q Having made the recommendation that the company should be wound up, I presume, then, that the Custodian would appoint you personally as a liquidator, as stated by Mr. Shears this morning? Would you outline to his lordship what you would do, having been appointed liquidator, from the

viewpoint of the operation of the company, its assets and advertising its assets? Just expand what you mean.

A Well, as I have outlined, we would take steps to verify the inventory of the company. In one or two instances this was done by directly appointing an appraiser and relying on his immediate appraisal for checking the inventory. In appointing our appraisers, we took particular care and we would possibly advertise the assets. We would usually advertise those assets with a view to getting the best results. We possibly would consult with the appraisers, because these men were experienced men of standing and familiar with the particular business we were engaged in liquidating. It might be that there was some particular technical point in reference to the assets for sale that should be covered in the advertisement sent out. I would like to state here that we paid particular attention to the form of our advertisements. We used an advertising agency for help to set up our advertisements, and we made a point of display advertisements. In all cases we gave the greatest display commensurate with economy. We felt we couldn't be exclusive, but we would always set up such an advertisement that it would come to the attention of anyone reading the newspaper. It was our policy -- we felt we should do everything we could to make sure that the advertisement came to the attention

of anyone particularly interested in that class of business. On certain occasions we have telephoned the odd person to bring to their attention the fact that there was an advertisement going in the paper, and we have done everything in our power to make sure there was absolutely the widest publicity given to assets being offered for sale.

Q Can you say whether or not at the time you were acting as liquidator of these companies, taking, for example, logging companies and sawmill operations, that the people interested in that type of business were kept informed from time to time about the possibility of buying, even before the advertisements were published? Did you have any contacts with them?

A We had very little interest in a lot of the equipment we had. We did in one particular case before it came under our control -- there were a number of people interested in this particular property, and in this case at that time we were not in control. They got in touch with us and we referred them to the officials of the company, looking after the company affairs at that time.

THE COMMISSIONER: Q: You started out by saying "We had very little interest". Does that mean that you, as a firm, had little interest or found there was little interest in the assets?

A We found there was little interest in the assets.

Q Little public interest?

A That's right.

MR. McPHERSON: Q: In the case of real estate on the mainland of British Columbia, thinking particularly ~~of~~ in the city of Vancouver and the Fraser Valley, what valuators would you use in those cases where you had real estate in the city of Vancouver? A: We used the same valuators that were used by the Custodian, and as far as my knowledge goes, they were approved by the Advisory Boards of Mr. Justice Smith and Judge Whiteside, New Westminster. The people we used for real estate were in all cases those same people.

Q After you had advertised and received tenders, how did you handle the tenders? Were they sealed when you received them, how did you open them, and what happened after that?

A All bids were sealed bids and they were only opened in the presence of officials of our own office, or members of our firm and members of the Custodian's office. The bids were then tabulated and considered. We considered the bids with the appraisals we had secured, and in some cases ~~secured~~ we went further and referred them back to the appraisers for their opinion on the bids we had received, and after we had reconsidered the bids we made a report to the Custodian recommending that some bids be accepted and others be rejected.

Q In considering these bids and referring them back to the people who had appraised the assets beforehand, as a result of the bids which you got in,

would you then decide on the basis of the recommendations these appraisers made as to what you should do -- either break up the company and sell the company assets individually, or attempt to sell them en bloc? Did you take advise of those appraisers on that?

A We would accept the advice of our appraisers. We gave quite a lot of serious thought to these questions before we came to the point of making a recommendation to the Custodian. I would like to point out here that while there has been some reference made in earlier evidence to the fact that the procedure carried on was that of a liquidation, that we always felt we were in a little preferred position in that my experience in an ordinary liquidation is that the creditors have a lot to say about the offers that are accepted. In our case we had the protection of the Custodian and there was no need at any time to make forced sales.

Q His lordship might be interested, in view of the fact you have acted as liquidator of these very large assets, to have some comment from you as to your attitude of mind as you approached your responsibilities.

A I would like to say that in addition to the cases coming before you at this time, we have acted in a great many companies, principally with enemy interests, and early in the proceedings, as far as I am concerned, I think my firm carried out the

same attitude. We made up our mind that we would not let the question of nationality affect our actions in any way, particularly in view of the fact we were at war. But remember, first of all, we were trustees and our duty was to get the best possible prices for all the assets under our control. I think, generally speaking, that was the attitude and procedure which we followed in carrying out our work.

THE COMMISSIONER: Q: Assuming the situation, Mr. Field where there was a market at the moment, that you had advertised, and yet it appeared to you that it might be helpful to hold the sale for a period of months with the prospect of higher prices, what policy was adopted under those conditions?

A Well, sir, I am not a clairvoyant. As trustee, I am not permitted to gamble on the future.

Q So that it was a case of realizing the best prices obtainable at the moment, rather than gamble, as you put it, on what the immediate future might bring. A:That is right.

MR. McPHERSON: Q: With regard to the Timber Controller, there was some suggestion this morning that the Timber Controller had been brought into this picture, and I gathered from Mr. McLelan's statement that there was some kind of pressure brought to bear and a forced liquidation resulted. Could you explain your relationships with the Timber Controller?

A In one of the larger enemy companies we controlled,

I was in frequent touch with the Assitant Bimber Controller. These several properbies would be discussed from time to time whenI was in his office and he would express the opinion he hoped that in the intereests of the war effort, these properties could be brought into production. We were in the position of trustees, and my recollection is -- I am not quite clear on this -- I said, "If you want us to do anything on this, you should give us instructions. We can't act on word of mouth. If you ~~x~~ feel we should do anything more than we have done, then I would like to have it in writing." We did subsequently get certain letters from the Assistant Timber Controller, but I feel in looking back on our actions we didn't allow the letters of the Timber Controller or the letters of the Controller in any way to upset our regular procedure with regard to advertising and endeavouring to get the best prices for the assets.

THE COMMISSIONER: Q: Did his interference have the result of expediting the sale?

A I don't think so, very much.

MR. McPHERSON: Q: You used the words "instructions from the Timber Controller". Do you mean instructions? A: Perhaps I should modify that by saying an expression of the desire from the Timber Controller that we bring these assets into production. He was in the position to give us instructions, or in a position, if he

wished, to take over the operation himself, but he merely expressed the hope that we would be able to bring thse assets into production in the interests of the war effort.

Q Did you attempt, having got a letter from the Timber Controller, in some cases to operate a or, for example, to manufacture lumber?

A We were not in a position to operate in most of these cases. In one case there was several million feet of lumber in the yard which we had our man re-manufacture and that was shipped under the directions of the Timber Controller.

Q Did you re-manufacture that lumber and ship it because of what the Timber Controller ordered, or because you thought it was in the interests of the company? A: We felt we could get a better price for it in the form of re-manufacture. We had at that particular point, acting as a watchman andin charge of the assets, a man who had a life long experience in the saw-mill business and we consulted with him and were satisfied he was in a position to carry out the re-manufacture,and we authorized him to go ahead. He had a lot of difficulty getting a sawmill crew, because of the war conditions, but I think he succeeded with the aid of some high school boys in running that operation, with the result that we obtained a very good price for the resulting lumber.

(PROCEEDINGS RESUMED AFTER SHORT RECESS)

CROSS-EXAMINATION MR. McLENNAN:

Q Mr. Field, you said you regarded yourself in the capacity of a trustee.

A That's right.

Q And as such, you couldn't naturally gamble on the future. A: Correct.

Q Even during the period of 1942, 1943 and 1944, of rising prices, and they were rising at that time?

A Very little rise at that time.

Q You felt in your capacity as trustee that you couldn't even under those conditions hold back the sale of the property on the prospect of a better price being obtained?

A That is correct.

Q But by the same token, there was no occasion to precipitate the early sale of the properties, was there? A: In certain cases these properties had fairly heavy liabilities.

Q Where there were no pressing liabilities, there was no occasion to bring about an early sale. It would not be consonant with your duty to do that, would it? A: Possibly not, except that we were carrying fairly heavy expenses. When you take into account the cost of maintaining watchmen, insurance and taxes on the property, you build up a fairly substantial sum. At the same time, in one particular case we were being pressed very definitely by the Income Tax Department for some funds; and while we didn't

allow that to unduly precipitate our actions, we had to take it into account.

Q And in order to bring about early sales, was it your policy to request letters from the Timber Controller? A: No, we didn't request letters from the Timber Controller, except in the way I have outlined already.

Q On the Western Company, Limited file, your file No. 2, there is a letter from yourself to P.S. Ross & Sons, Montreal, dated August 28th, 1942, in which this paragraph appears. I presume you were the writer. Ionly saw the carbon copy. You might tell me if you were the writer.

"The writer was speaking to the Timber Controller . . . . . the property for sale."

Did you make such a report to P. S. Ross & Sons?

THE COMMISSIONER: I think that letter had better be produced.

A My own feeling is, I prefer to answer that under the particular case you are dealing with.

MR. McLENNAN: Will you be giving evidence in the Royston case?

A I may not be, but my partner, Mr. Wray, will be. He will be more familiar with that than I will.

MR. McLENNAN: I ask that the letter be produced and filed here.

THE COMMISSIONER: I have no doubt it will be. From my point of view, I do not like extracts from letters being quoted andthe witness being faced

with them. I would much prefer that the letter be produced to him and his explanation be given then.

MR. McLENNAN: Yes, my lord, but I assume Mr. Field was the writer of the letter and he will not be in the Royston case.

MR. HUNTER: I haven't got this letter, my lord. I don't know whether I have seen it. I think if Mr. McLennan is going to quote it, he should be able to produce it. I am not sure that Mr. Field did write it.

THE COMMISSIONER: That is why I am calling for the letter. I assume you obtained the letter from the Custodian's Office?

MR. McLENNAN: Yes, my lord.

THE COMMISSIONER: Are you going to be finished with Mr. Field today?

MR. McPHERSON: Yes, my lord. I suggest he obtained it from Frederick Field & Company. I don't recall seeing it.

MR. McLENNAN: Yes, that is Field's File No. 2.

MR. McPHERSON: I think that should be corrected on the record. Mr. McLennan said he obtained it from the Custodian's file.

THE COMMISSIONER: Q: Could we get that file if you send for it now, so that you could deal with the letter itself?

A Yes. We received a request this morning from Mr. McLennan's office for copies of certain letters from our personal files, which we are now having

completed, and I assume this letter may be one of them.

MR. McLENNAN: I believe it is, but I am not positively sure.

MR. McPHERSON: If I might interject. Mr. McLennan is citing some correspondence which he only requested Saturday, so it was not possible that I could have it here today.

THE COMMISSIONER: There is no criticism of yourself, Mr. McPherson. It is obvious that this correspondence can be made available, and rather than have the witness cross-examined on extracts, I would like the cross-examination to be conducted with the letter before him. So it may be necessary for you to come back for a short time in the morning, if that will not cause you undue inconvenience.

A Yes. There is one point I would like to make and that is, I would like to have a chance to refer to my correspondence file, because the letter read by itself might mean one thing and accompanied with other letters might mean another thing.

THE COMMISSIONER: Yes.

MR. McPHERSON: If it pleases Mr. McLennan, if by any chance we finish tonight, I would undertake to put the writer of that letter in the box when the Royston case is heard.

THE COMMISSIONER: Perhaps that would serve your purpose better.

MR. McLENNAN: Yes, that would serve the purpose of

the Royston case.

THE COMMISSIONER: But you want to make some use of it in a general way?

MR. McLENNAN: Yes.

THE COMMISSIONER: Very well. If you hold over this line of cross-examination until the morning, we can ask Mr. Field to come back. Incidentally, what is the date of the letter again?

MR. McLENNAN: August 28th, 1942, from Frederick Field & Company to P. S. Ross & S ons, Montreal.

THE COMMISSIONER: Q: Then you will be able to familiarize yourself with the whole situation by tomorrow? A: Yes.

MR. McLENNAN: Q: Who determined in your office the amount of advertising that was to be done in connection with the different advertisements for tenders? A: In my office Mr. Wray was spending more time on Japanese matters than anyone else and he and I would discuss the adequacy of the advertising. We might on occasion have discussed the same thing with the Custodian's office. The general procedure was that all assets that were advertised for sale should have adequate advertising.

Q In all these advertisements, were the companies advertised as going concerns or not as going concerns? Some of them were advertised as going concerns, is that so?

A It would depend on the situation. If the company was shut down, but while being shut done was cap-

able of being picked up and brought back to that status, we would advertise the assets in such a way that if anybody desired to buy the complete plant they could make an offer for the whole of the assets.

Q In those cases when the appraisal of the logging equipment and sawmill equipment was made, it was made on the basis of breaking it down and bringing it to Vancouver, wasn't it?

A I don't know about that.

Q Who instructed the appraisers how they were to go about their appraisals?

A Whoever would be in charge -- whatever men of our staff would be in charge at that particular assignment would deal with that matter, possibly after ~~x~~ consultation with myself.

Q In the ~~xx~~ case of the valuations for logging equipment and sawmill equipment being listed as broken down and brought to Vancouver for sale, That is not a fair valuation, is it, in your opinion, when it applies to a company which is being sold as a going concenn and the machinery already set up?

A I am not an appraiser.

Q But you were taking these appraisers reports. Did you give any thought to that?

A We dealt with the offer as a whole and as I have outlined, when we were dealing with the offers, we considered the appraisals in our possession and after giving the matter consideration and,

perhaps in some cases consulting with our appraisers, we would notify and make a report to the Custodian.

Q But where the intention was to advertise a concern as a going concern and your appraisal was on the basis of the equipment being taken down and shipped to Vancouver to be sold in Vancouver, surely you must have gone back to your appraisals to see what the distinction would be.

A I don't know of any appraisal being definitely made with a view to shipping it to Vancouver.

Q It would hardly, on the face of it, appear to be a fair valuation if it were going to be sold --

THE COMMISSIONER: I think you had better establish your facts first before putting a question of such a hypothetical charadter. Your facts might not be capable of establishing it at all.

MR. McLENNAN: Assuming that is the position, there are many corporate claims I am dealing with and I haven't any one in mind. I didn't want to be specific on it. There may be others I know nothing of.

THE COMMISSIONER: There is too much hypothesis about the question. I don't think it is fair to put the witness in that position. He cannot help but give a protective answer. If you can establish your facts first and then face him with the question, I think that is the right way to approach it; and if you have a particular situation in mind, I suggest the proper way to handle it

would be to inform the witness now of the situation relative to a particular company and he can instruct himself in the meantime.

MR. McLENNAN: Well, my lord, if it is going to be brought down to particular cases, it is hardly fair to the claimant to lay all its cross-examination before Mr. Field at this time, if it will be answered by somebody else at a later date. I would rather not pursue it under the circumstances.

THE COMMISSIONER: Very well. That is for you to determine. It is my view that hypothetical questions are very dangerous, in any event, and frequently not very helpful.

MR. McLENNAN: Q: I suppose you recognize that timber cruises are estimates at best?

A Depending on the reputation and experience of the timber cruisers.

Q All timber cruisers in this province, I think you will agree, are generally on the conservative side. That is the practice, isn't it?

A Well, I don't think that is a 100% statement. Some timber cruisers, I think, are anything but conservative, from my own experience.

Q It is considered good practice to be conservative, isn't it?

A It is good practice in all practices.

MR. McPHERSON: Mr. Field is not a timber cruiser.

THE COMMISSIONER: ButMr. Field has had experience in the selling of timber, and no doubt has had a good deal to do with cruisers and his answer

would convince me of that.

Q A timber cruise is a timber estimate, is it not?

A Yes.

MR. McLENNAN: Q: And the practice is in good cruising to make a conservative estimate, isn't it?

A In a good cruise, yes.

Q And I presume that because the timber cruise is only an estimate, thatis why two or more cruises were made by you in some instances in connection with these companies?

A I don't recall two or more cruises being made.

Q As far as your recollection goes, there was only one timber cruise in each case where a timber company was involved?

A Yes.

THE COMMISSIONER: Where standing timber was involved.

MR. McLENNAN: Yes.

Q With respect to appraisal of logging equipment and sawmill equipment, what was the practice -- one appraisal or more?

A We have used several appraisers.

Q In connection with the same equipment?

A Yes.

Q In connection with the same company?

A Yes.

Q And why, then, would you have several in one instance and one in another instance?

A Well, in one instance we had, we had a piecemeal liquidation and considerable time elapsed from the commencement of liquidation to the close of

liquidation, and in this particular case the bulk of the assets had been sold, but it was desired to get a review owing to the lapse of time on the remaining equipment. Otherwise, when we had an en bloc sale, we would have been content with the original appraisal.

Q You made a rather startling remark to me. I would like you to explain it. You said, "We made up our mind not to let nationality affect our decisions." I say that is rather startling. Why would that enter into the picture. Had you had a discussion as to whether it should or not?

A I should have used the singular pronoun. As you recall, in 1942 the general atmosphere in Vancouver was anything but -- we were in the midst of a war.

Q That's right, and you were trustee of this property. A:That's right.

Q It wouldn't have occurred to me that the question of nationality would affect your decision as to what it should be sold for until you brought it up yourself, Mr. Field. You had some discussion and decided it would not affect your decision, is that so?

A Yes.

MR. McPHERSON: He didn't say he did discuss it with anybody else. He suggested the pronoun should be changed to "I".

THE COMMISSIONER: Mr. Field's last answer was that the topic was discussed by him with someone and

that conclusion reached.

Q Do I understand you correctly?

A I asked Mr. McLennan to change the plural in the previous answer to singular. I was the trustee in this case and it was my decision. I might add that some of my dealings right after Pearl Harbour were with Japanese who were definitely enemies -- Mr. McLennan didn't meet those people -- and that is why I felt it was worthy of comment.

MR. McLENNAN: Q: Who was "Bob" in your office in June 1942? A: Mr. Wray's Christian name is Bob.

Q Was it your practice to write him memos addressing him as Bob?

A I would like to know what you have reference to.

Q I have reference to the letter, which I would ask might be produced, dated June 16, 1942. It is in your File No. 1, December, 1941 to July, 1942. It is a letter from Mr. G. K. Uchiyama to P. S. Ross & Sons, with a pencil note thereon reading: "Bob - suggest that we ask Rosenberry to request that Mill be operated for War effort-- then we can lease operations." Would you get that letter for me?

A Yes.

THE COMMISSIONER: We will deal with that in the same way we dealt with the letter from File No. 2.

CROSS-EXAMINATION BY MR. McMASTER:

Q You suggested that the feeling with regard to

the Japanese in Vancouver was running fairly high in 1942. A: Yes.

Q And was it your experience that that affected the attitude of prospective purchasers of the properties? A: I don't think so.

Q Do you not consider that the fact that these properties were advertised as being sold under the Trading with the Enemy Regulations would affect the attitude of prospective purchasers towards the purchase of the property?

A No, I don't think so. I think the only purchasers we had were people who wanted to buy the assets.

Q Did you receive any bids from persons you thought were tendering ridiculously low amounts?

A That is a hard question to answer.

Q In your opinion, I mean to say.

A We frequently refusdd bids.

Q But in your opinion, did you receive any that were ridiculously low, having regard to the value of the assets?

A We may have in the odd instance, yes, but not as a general thing.

Q Do you consider that a company's incorporation is an asset worth value? that is to say, the charter, the certificate of incorporation?

A I would imagine it has value to the company as an operating concern, while operating.

Q And if a purchaser acquired the company, the charter would have some value?

A I presume it would, if he bought the shares.

MR. McPHERSON: Subject, of course, to its liabilities, Mr. McMaster.

MR. McMASTER: Yes.

Q Do you consider that the use of the name of the company carries with it value?

A Not necessarily so, no.

Q Do you recall consenting to the incorporation of a company with the same name as an existing Japanese company, but with the year 1944 appearing in the name?

A Yes.

Q And that was consented to -- the use of that name by the purchaser of the assets of the Japanese company -- is that correct?

A Pardon?

Q The consent was given to the purchaser of the assets of the Japanese company.

A Yes.

Q And do you consider that the giving of that consent had any value?

A No.

Q What was your procedure, if, after advertising, you didn't receive any bids?

A Well, we were then faced with a problem. Are you citing a particular case, may I ask?

Q No, I am asking you generally.

A In some cases -- I don't think these cases are before your lordship now -- dealing with enemy companies, we had to go out and, through our connections and contacts in Vancouver, interest

certain people in making offers, always subject, of course, to the appraised value. I don't feel that our procedure was changed at all, except that in the odd instance we might advertise again. We did possibly advertise again. If we succeeded in getting offers that measured up to the appraised value, we might be in a position to recommend the offers to the Custodian.

Q What deduction did you make from the fact you didn't get any offers some times?

A Normally, lack of interest in the particular assets advertised.

Q Did you consider the possibility that the advertisement didn't come to the attention of the general public or the type of people who might be interested in it?

A I feel we were fairly careful in insuring a fairly wide distribution of the advertisements we put in the press.

Q How many times did your advertisements appear in each case where you had assets to sell?

A As far as the Vancouver papers, we staggered the advertisements; one one day and one the next.

Q Are you referring to one company. Let's deal with one company. You are advertising the assets for sale. How many times would the advertisement offering those assets for sale of that one company appear, for instance, in the Vancouver papers? A: I don't think we had any routine or any regulation. We would

advertise to the extent we felt necessary to give a wide knowledge of the fact the assets were being advertised for sale.

Q There was no policy as to how frequently it would be advertised?

THE COMMISSIONER: It was to apply universally, you mean?

MR. McMASTER: Yes.

A There was no policy that we would advertise two times in this and three times in this. There was a policy that we would give the assets wide publicity.

Q And I understood from you that the person dealing with the particular case was the person who exercised the discretion as to the type of advertising and the number of times it would appear.

A I should qualify that by saying that I was personally in a suprvising capacity with all persons dealing with those, and they would refer it to me, so possibly I would say how many times the ads. would appear and as to the adequacy of the coverage, as they call it, in advertising. If the assets were outside Vancouver, we would possibly advertise in a local paper as well as Vancouver.

Q If you did receive bids on the property and they were less than the appraised value, what would you do about it?

A If the bids were quite low, we would definitely refuse them. In some cases I can recall, we did refuse the bids. And we might advise all

the parties making the tenders of the appraised value and advise them that we would be prepared to receive offers at or in excess of the appraised value. They would be all given an equal chance. If there were five people and all were below, we advised them all and gave them a chance to bid again.

Q Did you advise the general public at the same time you advised those five people?

A No.

Q In some instances when you took over a property, the Custodian's Evacuee Department had already been dealing with the assets of the evacuee, is that dorrect? A: That may have been done. I don't know. We received our instructions. Something must have happened that would give rise to our appointment.

Q In some instances the Custodian had had an appraisal made before you came into the picture at all. A: I am not aware of that.

Q Perhaps I might remind you of the case of the Haney Box Company, Ltd. Do you recall that case? A: Yes.

Q Did you have anything to do with it personally?

A Yes.

Q And in that case the Custodian, approximately a year before you took over the active control of the company, had had some appraisals made of the mill at Stave Falls. Do you recall that?

A I wasn't aware that the mill at Stave Falls was owned by any box company.

Q I am sorry. I mean the Haney Mills. You recall the Haney Mills? A: Yes.

Q Do you recall in that case that Haney Mills, Ltd. had a sawmill operation at Stave Falls?

A Yes.

Q And the Custodian had had an appraisal made a year before, approximately.

A I don't think so.

Q You don't recall it?

A No. I think a firm of solicitors had an appraisal made a year before.

Q That might well be dealt with in evidence later. In any event, did you have some appraisal in front of you at the time you had to deal with the Haney Box Company, some appraisal that had been made before that time?

MR. McPHERSON: If I might interrupt. If Mr. McMaster is challenging figures on a specific case--and he said the appriasal was made by the Custodian before Mr. Field took over --he should produce the appraisal, because I think it raises a doubt as to whether Mr. Field has a good memory, and I suggest the appraisal was not made by the Custodian.

THE COMMISSIONER: I think the point is well taken, Mr. McMaster.

MR. McMASTER: I don't think it has been produced to me by my learned friend as yet. However, it is

referred to in the material he has produced to me on his Summary of Evidence sheet.

MR. McPHERSON: We might let it stand until this particular case comes up.

MR. McMASTER: I am leading up to another point, and I was following your request that if we are going to be specific, we should be spedific.

THE COMMISSIONER: If it can be laid over until tomorrow, perhaps Mr. Field will familiarize himself with the facts in the meantime.

MR. McMASTER: I would like to pursue it.

THE COMMISSIONER: Q: Do I understand your last answer to indicate that you were satisfied that this other appraisal had been made not by the Custodian but by some firm of solicitors?

A Yes, sir.

THE COMMISSIONER: Mr. Field, apparently, is familiar with the situation.

MR. McPHERSON: Just to clarify the position, let me say that I think in the particular case my learned friend is referring to there were at least three appraisals, and Mr. Field is quite right there was an appraisal by a firm of solicitors and then there may have been an appraisal by the Custodian and by Mr. Field. I think it is a technical point and I am prepared to admit there were probably three appraisals.

MR. McMASTER: The point I want to get at is, what was the policy of Mr. Field and his staff in relation to the way in which they dealt with appraisers' reports?

THE COMMISSIONER: Go ahead and pursue your examination. Mr. Field, apparently, is familiar with the situation to which you refer.

MR. McMASTER: Q: In that case, I take it you didn't agree with the appraisal that had been made previously? A: I had no reason to agree or disagree. I did call on one of the firms making the appraisal -- this was about a year at least prior to the time I came into the picture -- and I asked that firm to revise their appraisal, because to me it wasn't an up-to-date appraisal.

Q On what basis would you ask them to revise their appraisal? A: I gave them no instructions, except to revise their appraisal, and I meant their original appraisal, when they had set out the various bases for their appraisal. They gave three bases. And I assumed they would proceed from their and give me a further valuation, possibly on the same lines.

Q Did you not in that case, and perhaps in others, arrive at the conclusion that the best way to sell the machinery was to bring it into Vancouver and break it down?

A No, I didn't.

Q You have no recollection of that?

A No.

Q How did you make decisions of that nature? That is the thing I want to get at -- as to whether or not the best thing to do was to leave machinery

where it was and sell it there, or whether it should be taken apart and brought into some other place and sold.

A The undertaking to move many tons of heavy machinery from one place to another at a very serious expense shouldn't be undertaken very lightly, and one would have to have first-class knowledge of what they might expect before they would do a thing like that. In this particular case, the total value of the machinery involved didn't appear to be of very great moment, according to the appraisals, and the equipment was fairly handy to the city of Vancouver and anyone interested in that machinery could readily see it, and it had been laying there already prior to our control for two or three years, and there didn't seem to me to be any point in moving it into Vancouver just to pay cartage expense.

Q That doesn't quite answer my question. How did you arrive at your decisions in that respect. Was it from your own general experience, or was it from expert advice you obtained?

A We relied on the advice of our appraiser. We discussed it with him.

Q Did you express your personal opinion to the Custodian or the Advisory Committee with respect to such matters? A: When we received bids, we made our recommendations to the Custodian as to whether those bids should be accepted or rejected.

MR. McMASTER: Perhaps my learned friend in the morning, when producing this other correspondence, might be good enough to produce a letter dated October 21, 1944, from P. S. Ross & Soms to the office of the Custodian, attention Mr. F. G. Shaars, re Haney Mills, Ltd.

THE COMMISSIONER: Do you know the file number?

MR. McMASTER: The copy which has been produced to me states at the top, "Our File 295-181".

THE COMMISSIONER: That might help the Custodian to run it down.

MR. McMASTER: And I reserve the right to reserve my cross-examination.

THECOMMISSIONER: Very well. Have you any re-examination, or would you prefer to withhold it until the cross-examining counsel are through with Mr. Field?

MR. McPHERSON: I would just as soon delay it, my lord.

THE COMMISSIONER: Then I suppose there is no purpose in going on now. We will adjourn until ten o'clock in the morning.

(ADJOURNED AT 4:30 P.M. TO 10: 00 A.M., WEDNESDAY, OCTOBER 13,1948.)

I hereby certify the foregoing to be a true and accurate record of the said proceedings.

Deputy Official Stenographer

Vancouver, B. C., October 13, 1948.

(10:00 a.m. PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: This is a continuation of the cross-examination of Mr. Field. Yes, Mr. McMaster?

FREDERICK FIELD resumed the stand:

CROSS-EXAMINATION CONTINUED BY MR. McMASTER:

Q Yesterday, Mr. Field, we referred to a letter from Ross & Sons, dated October 21st, 1944, to the Office of the Custodian, re Haney Mills Limited. I produce to you the original letter. Did you read that letter?

THE COMMISSIONER: Is this the first one mentioned, August 21st?

MR. McMASTER: October 21st, 1944.

THE COMMISSIONER: This is the last one you are dealing with?

THE WITNESS: It is not signed by me, but I wrote the letter.

MR. McMASTER: Q: I draw your attention to the last paragraph, which states: "Mr. Robinson, in making a valuation of the buildings . . . . . " Now, in that paragraph, you said that you had already stated your opinion that it, referring to the mill machinery, I take it, cannot be used in place, and therefore it would need a new appraisal. Can you advise the Commissioner how you arrived at that opinion?

A The inspection we made of the property.

Q By whom?

A By myself, with officials of the Custodian's office. I think it is stated in this letter-- I have read from earlier a portion of this letter; I would like to read this, if I may:

> "The mill property was originally constructed by one of the companies owned by the Abernethy & Lougheed interests who operated on a large scale in that area. The mill was obviously designed to take care of a large output, and is a very substantial and large structure. We understand that it was erected approximately 30 years ago, and would seem to be fairly well worn out, based on usual depreciation standards."

My understand is that a great deal of the timbers are in very bad shape, and that if anyone wished to use the building, it would be very difficult to adjust it to a smaller operation, which, obviously, the tenant--because this was leased property--did not mean. In viewing this particular matter, you should bear in mind this property was leased. It was not owned. Therefore, this building was--they would have to contemplate removal at some time or other, and that would have some bearing on our suggestion that the salvage value would have to be considered. This was not a complete sawmill, only a few pieces of equipment scattered around. It did not constitute a sawmill. That was the reason we contemplated

it would not be used in place.

Q And you arrived at that opinion yourself, without any expert advice?

A Well, naturally I discussed it. I afterwards called--I discussed it--no, I arrived at this opinion, myself, at that time, and I confirmed it later by reference to this.

Q You were accompanied, on your visit to the premises by Messrs. Shears and Wright?

A That is right.

Q Was your opinion influenced in any way by their opinion with regard to the mill?

A No, none whatever.

Q Were you aware of the fact that certain new structures had been constructed on those premises within three or four years before evacuation?

A I think there had been some attempt made to build a conveyer and burner, but the whole thing was just half built. It was not very complete.

Q With regard to the other cases that you had to deal with, in general terms, what was your practice; to arrive at opinions of this nature, without reference to expert advice?

A I think it would depend on the circumstances of the case. This was an obvious case. Anyone with any knowledge of the sawmill business at all would come to a conclusion very quickly.

Q Do you recall whether there would be, in the other cases where you came to a conclusion, a determination that way, without any expert advice?

A Normally, we used the advice of our appraisers in their proper place. As businessmen, we had to make decisions ourselves, and we made those decisions to the best of our experience, and so forth.

Q In this specific case, do you recall whether you had any appraisal made before the sale?

A I had a revision of the appraisal made.

Q Did you express to the appraisers your opinions when you asked for the revision?

A No.

Q Then what was meant when you said that, in your opinion, you should discuss the matters with the appraisers before they commenced their work. What were you going to discuss with them?

A I say here it would be desirable, before advertising.

Q The sentence before that?

A One reason that caused that sentence was that Galbraith & Sully, in their original valuation, gave three values. I think you are probably aware of them. They gave, one way, I believe-- I won't quote them, but they gave three values, not quoted--

Q One was if sold to a dealer, to be re-sold; that was the lowest. The second, if it was dismantled, and brought into Vancouver, or some other centre, and sold in pieces. And the third was if it was sold as it was on the property.

A Yes.

Q The latter being the highest--

MR. McPHERSON: My lord, we seem to be constructing a mill here, and while I am prepared to hear Mr. McMaster's cross-examination on our evidence, it will make it much more difficult for Mr. Field --he has not seen the files for some time.

THE COMMISSIONER: I will keep that in mind. I think the purpose of the cross-examination is to endeavour to show the manner in which these things were done.

MR. McMASTER: Q: Now, having regard to the three valuations, what were the matters that you required to discuss with the appraisers before they commenced their work?

A Well, I am going strictly from memory now, but I imagine that we would discuss the whole situation at that point with Mr. Sully, based on our inspection, and the prospects of sale, and the request to him for some very definite expression of opinion, possibly, as to whether he felt there was a sale possible in place, and so forth.

Q I draw your attention to that second last sentence again:

> "We have already stated that, in our opinion, it cannot be used in place, and we will therefore have a new appraisal made, and discuss the matter with the appraisers before they commence their work."

Were you referring to new appraisers in that sentence, that you were going to discuss matters

with?

A No, as a matter of fact, the people I discussed the matter with, to sell--

Q I am referring to when you wrote the letter. Was it intended you would get a new appraisal, and discuss matters with the new appraiser?

A Possibly that term was badly used. It should have been advice. This was a year after the previous appraisals.

Q You stated quite definitely you would not express the opinions of the appraiser--your own opinion that the machinery could not be placed in place?

A Pardon me?

Q Did I understand you to state that you would not have expressed to the appraiser your own opinion as expressed in this letter, that the machinery could not be used in place?

A I don't recall our conversation of four years ago at this time. I am not prepared to say what I said to the appraiser.

Q Well, was it the practice in this, or any other case, to express your opinions as to the methods in which the property could best be sold?

A Definitely we were--we relied on the appraisers to assist us in setting up our advertisements.

Q I am referring to prior to the appraisal being made.

A The appraisal had been made, in this case. I am calling for revision.

Q I would like you to speak generally. In almost

every case, you had appraisals made?

A Yes.

Q Now, prior to having the appraisal made, was it your practice to discuss with the appraiser the opinions which you had as to the best manner in which the property could be sold?

A That is a difficult question to answer at this time. We relied on our appraisers as experts. I have already stated I am not an expert in every particular kind of business, and we naturally would value the advice of our appraisers.

Q Mr. Field, I am talking about the time -- at the time you were instructing the appraisers.

A Yes.

Q Did you express opinions to them as to your ideas as to what the best method was of selling this property, not just this property, but the properties that they were to appraise?

A I prefer to answer that question with the particular--when the particular property is under consideration.

MR. McMASTER: I would ask to file the letter as an Exhibit, my lord, and I believe my learned friend would like to keep the original, and make copies.

THE COMMISSIONER: Q: What it comes down to, as I understand the line of cross-examination is, did you dictate to the appraisers as to how the appraisal should be made?

A Certainly not, sir.

(LETTER MARKED AS C. C. EXHIBIT NO. 6)

CROSS-EXAMINATION BY MR. McLENNAN:

Q Mr. Field, yesterday I asked you about a letter dated June 16th, 1942, on which there appears a pencilled note reading as follows:

"Bob - suggest that we ask Rosenberry to request that mill be operated for war effort--then we can lease operations."

You have seen that letter since yesterday?

A Yes, sir.

Q Tell me in whose writing that pencilled note is?

A My writing.

Q And you, I suppose, in the course of liquidating this particular company, or in the course of controlling it, at that time wrote that as instructions to Mr. Wray, to ask him to contact Mr. Rosenberry?

A I hardly think that would be instructions to Mr. Wray. I might explain, sir, that in my office, all correspondence comes over my desk, and I frequently make comments on letters before they go to my partners, and in this case, I have no doubt I made this comment. My idea was--some idea in mind based on my knowledge of this particular company, but I would hardly go so far as to say it was instructions. I didn't give instructions.

Q It was a request to Mr. Wray to contact the Timber Comptroller, to get such a letter?

A No, I would not even say that. I would say it is a suggestion to him that he might.

Q And presumably that suggestion came about through a discussion you had with Mr. McPherson?

A I don't think so.

Q You don't recall? A. No.

THE COMMISSIONER: Now, Mr. McLennan, I do not like these interpretations by counsel of the answer the witness has given. The witness did not say he did not recall. He said, "I don't think so."

MR. McLENNAN: Q: Well, do you recall?

A No.

MR. McLENNAN: My lord, I would like to file that as Exhibit 7, a copy of it.

(LETTER MARKED AS EXHIBIT NO. C. C. 7)

THE COMMISSIONER: Have you the original of the letter there? I would like to look at it.

MR. McLENNAN: Q: Mr. Field, who is the Mr. Rosenberry referred to in that pencilled note?

A The Assistant Timber Comptroller.

Q Then, Mr. Field, yesterday I referred to a letter of the 28th August, 1942, written, apparently, from your office, to T. S. Ross & Sons, of Montreal. You have seen that letter since yesterday. Can you tell me who wrote that?

A I think I did.

Q I am showing you a copy of that letter which has been produced to me. You wrote that?

A Yes.

Q I presume the statements contained in that are true? A. Yes.

MR. McLENNAN: Could I have the letter, please? I tender

that, my lord, as Exhibit 8.

(LETTER MARKED AS EXHIBIT NO. C.C. 8)

Q In that letter, there is this sentence, "Mr. McPherson feels that this will give him the added authority with which to offer this property for sale." Presumably that was written after you had some discussion with Mr. McPherson about it?

A Probably, yes.

Q The Mr. McPherson referred to is Mr. G. W. McPherson?

A. Yes.

Q There is a second-last paragraph in that letter, which reads as follows: "We have several people interested . . . . .sale made." Now, would you bear that in mind, and refer to your evidence yesterday, where you said that, generally speaking, there was very slight interest shown by prospective purchasers at this time. Obviously, that does not refer to the Royston Lumber Company Limited.

A Well, there were the odd people that were interested in looking at the property, but they did not buy it. As we said there, we had one definite interested party who was submitted to Mr. Uchiyama some time previous to this. You might be interested to know Mr. Uchiyama had suggested prior to this he wanted to sell the property.

Q That is hardly an answer to the question.

A I am merely stating that because of the reason why we took this buyer to Mr. Uchiyama.

Q You say in that letter that several people are interested in purchasing. That was, of course,

true? A. Yes.

Q So your general statement yesterday that very little interest was shown does not apply as far as the Royston Lumber Company is concerned?

A I don't think that follows, because the war was on. If this had been a desirable property at that time, there would have been a lot of interest shown, and comparatively, there was little interest shown.

Q Would it be fair to say there was considerable interest shown?

A I don't think so. The facts don't bear it out.

Q Of course, your opinion in that regard would be altered if letters are produced in the Royston case from your office,-the Custodian's office, referring to considerable interest being shown?

THE COMMISSIONER: We will come to that.

MR. McLENNAN: Q: Mr. Field, I would like to discover one more aspect of this matter. You have had considerable experience in controlling logging companies and sawmill companies?

A Yes.

Q Did you have considerable experience in that before 1942?

A A considerable amount, yes.

Q And can you tell me what logging companies or sawmill companies you controlled before 1942?

A I think that is a matter of my private practice.

Q How many--can you tell me that--in the 5 years prior to 1942?

THE COMMISSIONER: Wait a moment--may I have your question

repeated?

(Question read by Stenographer)

THE COMMISSIONER: What do you mean by "controlled"?--referring to properties that Mr. Field was representing the Custodian in respect of?

MR. McLENNAN: No, my lord, I am referring to the evacuation process. I am just trying to find out from Mr. Field what actual experience he had. Since 1942, he had considerable experience, but I would like some idea of his experience prior to that.

THE WITNESS: Of course, the term "controller" is not applicable to our experience prior to that time.

MR. McLENNAN: Q: You were not, in fact, controlling companies in the same sense before 1942 as you were in 1942 and subsequently?

A No. It has not been my experience to control companies in the same manner as after '42.

Q And in the 5 years prior to 1942, did that ever occur?

A No, we would be in an advisory capacity, rather than a controlling capacity.

Q Does the same apply to the category of supervising, as you did subsequently to 1941? After 1941, you supervised logging companies and sawmill companies. Prior to that time, in the same sense as used by Mr. Holt, had you supervised logging and sawmill companies in the 5 years prior to 1942?

A I would not want to trust my memory. I know we had

considerable to do with logging and sawmill companies, and during those years, but in our capacity--in certain cases, we would be on all fours with the duties of supervisor, and perhaps with the exception that we would not control cash, but we would supervise the company.

Q It was within your knowledge, or capacity, as a chartered accountant?

A Possibly, but our duties as the auditor were sometimes exceeded in the cases of certain private companies.

Q That, presumably, would refer to most of them when the company got into financial difficulties?

A Not necessarily.

Q Did you manage any logging company in the five years prior to 1942?

A Did I manage a logging company?

Q Yes? A. No.

Q And prior to 1942, take the 5 years before that, you did liquidate a certain number of logging companies?

A I frankly don't want to trust to my memory on that.

Q You would not be sure of that?

A No.

THE COMMISSIONER: Is there any re-examination?

REDIRECT EXAMINATION BY MR. McPHERSON:

Q Mr. Field, when you said yesterday that there was little interest shown in the sale of the assets by you, I asked you whether or not you were talking about an advertisement.

MR. McLENNAN: I object.

THE COMMISSIONER: I would like to hear the question. You will please not answer, Mr.Field, until I hear what the question is.

MR. McPHERSON: My lord, as I heard the evidence yesterday, it was my understanding that at the time Mr. Field was talking about little interest, he was talking about the publication of the advertisement. The question I wish to ask the witness is whether, at that time, he was talking about general interest in the assets, or interests in the assets at the time of the advertisement.

THE COMMISSIONER: I think we have had Mr. Field's answer.

MR. McPHERSON: Q: Mr. McLennan suggested yesterday you should have delayed the sale in the hope of getting a higher price. What would you say to that, as a trustee?

A Shall I answer, my lord?

THE COMMISSIONER: Yes.

A I have already stated my position in that connection. I cannot see where a trustee is entitled to gamble on the future.

MR. McPHERSON: Q: Mr. Field,yesterday Mr. McLennan suggested the company's assets were advertised as

a going concern. Is that correct? I am speaking about Royston, and Mr. McLennan was talking about Royston. Were the assets advertised as a going concern?

A. No, they were advertised in such a way that one interested in operating on the property and operating it as a going concern could acquire the the whole property but Royston was not a going concern at the time it was advertised for sale.

Q. Mr. Field, it is my recollection that in talking about the advertisement which was published, Mr. McLennan hinted that the equipment was to be moved to Vancouver for sale. Was that stated in the advertisement?

A. I don't recall anything like that.

Q. In regard to this question of your experience of sawmill and logging operations, put by Mr. McLennan, have you had any experience in the reorganization of sawmills prior to 1942, the reorganization of their capital structure, and things like that?

A. I have.

MR. MACPHERSON: My lord, I would like to call Mr. Wray of P.S. Ross and Sons.

THE COMMISSIONER: If you are through with this witness I have one or two questions I would like to put to him.

Q Mr. Field, referring to the letter of June 16, 1942, which was marked Exhibit 7, if my recollection serves me right, the evidence

led through yourself and Mr. Shears shows that it was not until sometime after June, 1942 that the Custodian was even considering the sale of these properties. Am I right in that?

A. You are, sir.

Q. When was it the authority to sell corporate properties was given the custodian by Ottawa, do you know?

A. I don't know. I know that the particular case we are discussing at Royston--that we were given the liquidating order in October, 1942. That is I think one of the early ones where we were given the order to sell.

Q. What courses were open to the custodian, or to your principals, P.S.Ross and Sons, in dealing with, what is the name--Uchiyama?

A. That is Royston.

Q. What alternatives were open to the custodian in dealing with that property at that time in the way of realization?

A. Well, you must understand that our appointment as controller contained no power to sell although subsequent powers did.

Q. Yes.

A. And therefore in cases that we did feel that some action should be taken, we would have to ask specific--make specific recommendation to the custodian and he would have to make his own decision as to what action should be taken. I don't know whether that quite answers your question.

Q. Well, I am trying to determine the purport

of this memorandum of yours of Exhibit 7.

A. At that time there had been some consideration of the possibility of leasing Royston Lumber Co. on some terms. My recollection is that subsequent discussion between myself and Mr.WRay brought us to the conclusion that it was not practical to lease the property in the best interest of this Company.

Q Why should you make this suggestion to your partner that he ask Rosenberry to request that the mill be operated. You go on to say, "Then we can lease the operation".

A. As I pointed out it was sometime later we came to the conclusion it was not practical to lease. I think in Augusta we wrote a letter in which we changed our mind on it.

MR. MACPHERSON: I propose to call Mr. Wray because the Royston case seems to have been brought into issue here, and have him explain the correspondence. I think he can answer the questions in detail which you, My Lord, have asked and I would like to call Mr. Wray.

THE COMMISSIONER: In view of your comments, Mr. MacPherson, do not overlook the fact we are dealing now only with general matters. Reference to particular matters, as I understand it, is introduced solely with a view to showing that possibly the policy was such an so.

MR.MACPHERSON: Yes, except in this particular case I suggest that other counsel has produced correspondence to indicate or to establish in this particular

case the general policy?

THE COMMISSIONER: That it was, as I understand their purpose, indicative of some policy different from that which the witness had stated.

MR. MACPHERSON: Yes, I merely propose to put in the documents.

(Witness aside)

ROBERT FREDERICK WRAY, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. MACPHERSON:

Q. When was the firm of P.S.Ross and Co. appointed inspectors in the Royston Case?

A. The 13th of January, 1942.

Q Subsequently to that, was there another appointment issued, and if so, what was it?

A. On the 21st of May, 1942, the Royston Lumber Co. was prohibited from carrying on business except under the supervision and control of P.S.Ross and Sons, Chartered Accountants.

Q. What does that mean. What Was that a supervising order?

A. That is a supervision and control order.

Q. Were you given any power under that order to sell the assets of Royston?

A. No.

Q. Exhibit 7 is a letter from Mr. Uchiyama concerning the sale and this is the letter in which there is a pencilled notation. I would ask whether or not this letter arose out of any discussion you had with Mr. Uchiyama about the sale or leasing of this property or how

this letter came to be written.

THE COMMISSIONER: We are on something that may perhaps transpire to amount to some importance. I would like you to be careful not to lead.

MR. MACPHERSON: Q. Yes, You can just tell us.

A. Before Mr. Uchiyama was evacuated from Vancouver, he had advised me that he would entertain a reasonable offer. About the time of our control and supervision appointment, a buyer came forward and it was attempted to make a sale with Mr. Uchiyama's consent. Several discussions were held with the intended purchaser, and Mr. Uchiyama finally would not take his price. He subsequently said he wished to contact the remaining shareholders and this letter is in further reference to that point.

Q. Mr. Wray, I show you the notes on the letter. What action did you take, as the result of that note?

A. To the best of my recollection I took no specific action with reference to that note.

THE COMMISSIONER: You might have that feature of the matter explained, Mr. MacPherson.

MR. MACPHERSON: Q. The note says, "Suggest that we ask Rosenberry to request that mill be operated for war effort - then we can lease operations". Can you explain what the leasing of this operation meant, and whether or not you can say who leased it.

A. We came to the conclusion that the leasing of the operation was not practical because the Company had a considerable amount of equipment and supplies that were expendable, and in addition we felt that the lessee, if not entirely responsible, could shall we say take the cream--use up the cream of the assets, and unless the lease was followed throught o conclusion, and the final realization of the Company's timber, that it could be -- that after leasing for a period the Company would recover very little and have its assets sadly depleted.

Q. Mr. Wray, the note suggests that you should ask Mr. Rosenberry. Did you ask Mr. Rosenberry or have you been in touch with Mr. Rosenberry in this matter, or any other matter.

A. On the contrary. I/RE call that Mr. Rosenberry consistently--

MR.MCLENNAN: I don't want hearsay evidence on this if it is Mr. Rosenberry's conversation.

THE COMMISSIONER: The witness as I understand it, is simply reporting what stand Mr. Rosenberry had taken previously. I will hear that.

A. Mr. Rosenberry, the assistant timber controller was periodically continuing to enquire when the Royston Co. would be put in operation to produce lumber; that he considered--

Q. You were under some pressure from Rosenberry to get the plant into operation?

A. Constantly, yes.

MR. MACPHERSON Q. Mr. Wray, did you subsequently receive a letter from Mr. Rosenberry?

A. Yes.

Q. Will you produce that letter. Have you the letter from Mr. Rosenberry? I will file that as an exhibit.

MR. MCLENNAN: I have not seen it.

MR. MACPHERSON Q. Will you read the letter to his Lordship. My Lord, I have a copy of that somewhere here. I would like to file the original as an exhibit but later to replace it.

THE COMMISSIONER: What is the date of that letter?

THE WITNESS: The 28th of August, 1942.

Q. Was that written in response to a request by you following out Mr. Field's suggestion to you as endorsed on Exhibit 7?

A. I am satisfied that we did not make a specific request to Mr. Rosenberry for the letter. It is quite possible we told him that he might put in writing his repeated requests to get this plant in operation.

Q. You say that was not the first-- it was not the first request?

MR. MACPHERSON: I will file that as Exhibit 9, My Lord.

(LETTER MARKED AS C.C.EXHIBIT 9)

Q. Mr. Wray, Exhibit 8 is a letter of August

28th, 1942, of the same date, to your office in Montreal and it has been put in as an Exhibit, in which it refers to the anxiety of the Custodian's office to sell this timber. Can you advise as to what the Custodian's policy was in 1942 with r espect to the liquidation of assets?

THE COMMISSIONER: Well now, just one moment. This witness can only give that evidence as the result of something that was told him by the Custodian.

MR. MACPHERSON: I am really speaking with respect to the Companies, that P.S.Ross was administering, and whether or not he can tell us what the general policy of the custodians office was up to that time.

THE COMMISSIONER: That is all right.

THE WITNESS: The general policy of evacuee companies was not to liquidate the assets at that time.

MR. MACPHERSON: Q. I show you an appointment dated October 28, 1942. Have you the original of that appointment?

A. Yes.

Q. What is the nature of the appointment?

A. The order of the 21st of May, 1942 was revoked, and in substitution of that order, Mr. Frederick Field, a chartered accountant, representative of P.S.Ross and Sons was appointed Controller of the affairs of the Royston Lumber Co.Ltd. The order also confers upon Frederick Field such

powers as are exercisable by the liquidator in the voluntary winding up of a Company.

Q. I would ask you to read for his lordship the second paragraph of the appointment, in view of the suggestions here that there was an attempt to hide the fact that Mr. Rosenberry was interested in this case.

A. "And whereas Mr. D.V.Rosenberry, the Assistant Controller for British Columbia, has requested the above Company to resume its operation as quickly as possible, in view of the fact that lumber is urgently required for Canadian and United Kingdom defence work." Do you know of your own knowledge, Mr. Wray, whether or not in 1942, when the War was on with both Japan or Germany, there was any shortage of logs and lumber in British Columbia?

A. Yes, there was quite a shortage of logs, both logs and lumber at the time.

Q. The first letter from the timber controller which you have put in as an Exhibit was dated August 28th, and we are now putting in the appointment as Liquidator, dated October-- I have not the exact date-- it was in October?

A. October 28th.

Q. That is two months later. Can you advise his lordship as to whether or not the interests of the timber controller affected your liquidation of this Company; that is the method of liquidation.

A. Yes, when the assets of the Company were

advertised and sold, it was on the understanding that operations would be continued by the purchaser.

Q. Mr. Wray, when you did advertise the Comapny, there was the point Mr. MacLennan referred to yesterday, that it was advertised as a going concern. Now I take it that at that time that you advertised it you did have some clause in the advertisement to the effect that the purchaser must operate it.

A. Yes, the advertisement says the assets are offered for sale by the party as a going concern.

Q. Just one more question Mr. Wray. When you came to advertise the property and to call for tenders and consider the tenders, did you follow the normal procedure of a trustee, and did the timber controller's interest in this case affect your policy of liquidating in any way, so far as price is concerned?

A. I would say not.

MR. MACPHERSON: Your witness.

(ORDER MARKED EXHIBIT C.C. NO.10)

CROSS EXAMINATION BY MR. McLENNAN:

Q. Mr. Wray, the order of the 28th of October, to 1942/which you have referred was an order of G.W.MacPherson, Deputy Secretary of State?

A. Yes.

Q. And that is the same MacPherson mentioned in the letter of August 28th from Mr. Field?

THE COMMISSIONER: Oh, that is obvious, is it not?

MR. MCLENNAN: Q. There is no doubt in your mind, Mr. Wray, that the timber controller's letter

Exhibit 9, is a direct result of that conversation that Mr. Field had with the timber controller on August 28th to which he refers-- it is referred to in exhibit 8.

THE COMMISSIONER: I would like you to frame that question again, and put the document in front of the witness.

MR. McLENNAN: Q. I am showing you a letter of the 28th of August, 1942, Exhibit 8, the second last paragraph. It refers to Mr. Field having seen the timber controller that day. Do you see that.

MR. MCPHERSON: I would like him to read that paragraph if that is what it says.

MR. MCLENNAN: Q. The paragraph beginning, "I was speaking to the timber controller--" the third last paragraph-- "and he has agreed to write us a letter" and so on?

A. Yes.

Q. And on the same day the timber controller did write the letter, Exhibit 9?

A. Yes.

Q. There is not doubt that Exhibit 9 was the result of that conversation which Mr. Field had.

THE COMMISSIONER: You are now talking about conclusions that this witness might draw.

MR. MCLENNAN: Very well. On the other matters, I dont want to get into the specific questions that are raided.

CROSS-EXAMINATION BY MR. McMASTER:

Q. Just one or two questions. Witness, can you

advise the Commissioner as to the date of the appointment of the Timber controller?

A. When Mr. Rosenberry-- or the timber controller's office?

Q. The Assistant Timber controller. When was the Timber Controller's office set up in Vancouver; are you aware?

A. I am not certain. I think it was in the fall of 1941. I am not positive.

Q. When did you begin receiving telephone enquiries from the timber controller or the deputy timber controller?

A. Well, in the first instance when the Japanese were evacuated, and a large stock of lumber was left in the yards. Almost immediately we had to get that lumber on the market.

Q. That is cut in the sawmill?

A. It was sawn and needed re-manufacture.

Q. With regard to the standing timber, when did you first receive any requests from the timber controller by telephone or otherwise, to get the timber on the market?

MR. MCPHERSON: My lord, might I ask for clarification, whether Mr. McMaster is asking about Royston.

MR. MCMASTER: I am asking generally.

THE COMMISSIONER: I think he put the question generally.

A. I could not state specifically. We were in touch with the timber controller in this matter, the matter of Royston and other companies and I could not state specifically when the first request was given.

MR.MACMASTER:

Q. How long before this occasion arose with respect to Royston which Mr. McLennan has been discussing with you?

A. I can only say, sometime before.

Q. And you were in touch with the timber controller?

A. Well, his office, and Mr. Rosenberry at different times, yes.

Q. Did the timber controller or his deputy first contact P.S.Ross and Sons or did P.S.Ross and Sons first contact the timber controller?

A. I am satisfied that Mr. Rosenberry contacted ourselves with reference to the sale of lumber.

Q. You received in other cases besides the Royston Lumber Company, requests from the timber controller to put the timber on the market?

A. Well that was the effect of all the other cases.

Q. I beg pardon?

A. There were other companies that we sold or put on the market.

Q. I am referring to evacuee companies, as you have described them.

A. There was one other-- there were one or two other companies of consequence, but I don't remember--

Q. Did you receive a specific request from the timber controller or the deputy controller with respect to these other companies.

A. I could not say. I did not handle the other companies.

THE COMMISSIONER: Any other re-examination. Thank you Mr. Wray.

(WITNESS ASIDE)

THE COMMISSIONER: Is the next a long witness?

MR. MCPHERSON: I have finished my case. I would like to comply with your requests that I should give some dates as to when the Custodian took over in the variouseeases.

THE COMMISSIONER: Very good.

MR. MCPHERSON: In the case of Deep Bay Logging Co., the inspection order was issued on May 20, 1942-- I am sorry, on March 20th, 1942. On May 22nd, 1942, P.S.Ross and Sons were appointed supervisor. On February 28th, 1944, Frederick Field was appointed liquidator. On May 9, 1944, certain shares of the Company were vested in the Custodian. On May 9th, 1944, certain warrants were issued transferring the shares to the Secretary of State. On August 17, 1946, the winding up order, winding up the Company, its Charter, was made. Now, while this is not a Company, I think your lordship may be interested in Mr. Kegetsu. There were various vesting certificates filed on individual pieces of real estate which Mr. Kegetsu owned at various times; I don't think they are material here, but there was a special vesting, Timber Block 195 in June, 1943. In the case of the Royston Lumber Company where was an inspection order issued on January 13, 1942. On May 21, 1942, there was a vesting of certain shares of that company under order-in-council P C 2483. On the same day, May 21,1942,

P.S. Ross and Sons were appointed supervisors. On October 28, 1942, Frederick Field was appointed liquidator, controller-- with powers of a liquidator. On August 17, 1946 a winding up order was issued. With respect to Haney Box Co. Ltd.-- there was several other orders; I am just giving the orders taking over the property, but I can give more.

MR:MCLENNAN: I thought you were going to give more.

MR. MCPHERSON: I can give them all.

THE COMMISSIONER: That is all I require unless counsel wishes this other information.

MR. MCPHERSON: I can supply him with copies of the other orders. With respect to Haney Box Co.Ltd. the inspection order was issued on Nov. 8th, 1943. There was a vesting of certain interests in real estate, certain lots, and on February 16, 1944 there was a vesting of certain enemy interests-- the shares not specifically vested and on the same day there was another vesting order of evacuee-ship. On February 16, 1944, Frederick Field was appointed controller with powers of a liquidator. On June 21st 1944, warrants were issued transferring the shares to the Secretary of State, and on August 6, 1947, a winding up order was issued. With respect to Haney Mills Limited, on September 18, 1944, Frederick Field was appointed controller. On September 18, 1944, the shares, the evacuee owned shares were vested and on the same day, a warrant was issued transferring the shares to the Secretary of State, and on the same date Frederick Field was appointed

controller with the powers of a liquidator. On August 17, 1946, a winding up order was issued.

MR. MCMASTER: My lord, with respect to my learned friend's statement concerning Haney Mills Ltd., my understanding of the situation from the documents he has produced, is that Takamoto was carrying on business under the name of Tanaka Bridge Lumber Co. at the time of evacuation, and in March all of his assets were vested in the Custodian, March or May, by specific vesting order. Subsequently, in or about the end of June, 1942, the company was incorporated known as Haney Mills Ltd.

THE COMMISSIONER: Incorporated by whom?

MR. MCMASTER: Incorporated by one Helen Russel and Mr. Butler. An agreement was entered into on June 30th between the Custodian, Takamoto and the Company whereby Takamoto agreed to have transferred to the company, certain assets which he had previously had in his own name, more particularly the timber berth and sawmill operation, or the sub-lease of the sawmill operation. In consideration of that the Company agreed to issue to Takamoto or to the Custodian, seven thousand shares in the Company--

THE COMMISSIONER: How am I interested in this at this time?

MR. MCMASTER: As I understood it, my learned friend was to give the picture as to when the Custodian took over or exercised some control or authority over those Companies, and he has given us a date commencing with September, 1944.

MR. MCPHERSON: I was asked, my lord, to produce

information as to the date the Custodian took over the Company. I have not been asked to produce any information as to the date the Custodain vested Mr. Takamoto's shares. I am dealing specifically with the Haney Mills Ltd.and I am quite certain September was the date we took over the Company.

THE COMMISSIONER : I don't know that I want the details.

MR. MCPHERSON: The rest of it would be a matter of argument.

THE COMMISSIONER: You took over the shares, I appreciate that.

MR. MCPHERSON: United Marine Products Limited, on July 8th, 1942, a vesting order was issued vesting certain interests in real estate in which the company appeared to be interested. On February 14, 1944 the shares of the Company were vested. On Eebruary 16, 1944, Frederick Field was appointed as a controller with powers of a liquidator. On June 14, 1944, certain warrants were issued transferring shares to the executor of estate.

THE COMMISSIONER: I am not concerned with that. All I want is tonknow when steps were taken by the Custodian in relation to the Company.

MR. MCPHERSON: I have given in the other cases the winding up order and I will just put it in if you do not object. On August 7th, 1946 the winding up order was issued. My lord, as far as the other cases are concerned, Cowichan

and Tanaka and Maple Ridge, Ocean Fisheries, River Fish-- it has not been handled by myself. The three saltery cases may be withdrawn. I don't know if you want the details. Counsel are not here.

THE COMMISSIONER: I do not see any purpose for it. We have probably the ones represented by counsel here-- that is the one I want information about.

MR. MCPHERSON: There is one additional point, if I may be allowed to speak of it, and that is the question of the presentation of evidence in these particular cases by the Japanese claimant. I know that it has been the custom in so far as other individual claimants are concerned that your lordship has allowed them to file a written statement and then swear to their signature and put in a written statement. I would request my lord, that in the case of a corporation which is very involved, and considerable sums of money are involved, that opposing counsel should not be permitted to put in a written statement, but the Japanese should tell the story the same as the Government witnesses have done.

THE COMMISSIONER: Since we are going ahead with claim and defence, perhaps it is desirable to deal with these claims as one would do with a lawsuit, unless counsel for the claimants has some other ideas.

MR. MCMASTER: In the case of the Deep Bay Lumber Co., I discussed this matter with my learned friend previously, and I thought we had agreed in this case we might follow the procedure to expedite the hearing.

THE COMMISSIONER: What is your view on that?

MR. MCLENNAN: Unless they are particularly contentious matters, I think they should be covered by statements.

MR. MCPHERSON: My lord, I would like to reserve my position on Mr.McMaster's case until I see what amendments he makes to his claim. It may be-- he has given me to understand certain things may be withdrawn in which case his claims will be substantially reduced, but at the present time they are very substantial claims.

THE COMMISSIONER: Are not the amendments in yet?

MR. MCMASTER: No, my lord.

THE COMMISSIONER: How are we going to be able to go on?

MR. MCPHERSON: As far as Royston are concerned, I believe Mr. McLennan and myself have exchanged information as to the Exhibits. As far as Mr. McMaster's cases are concerned I have not yet received a statement of the Exhibit he will be filing, and I do not know what amendments he is going to make, but when he does give to me the amendments, I will be in a better position to decide how the Japanese should put in his evidence.

THE COMMISSIONER: WE will leave that in the meantime. What is the reason for the delay in filing this material?

MR. MCMASTER: In the first place I think I have given my learned friend assurance by word, if not by letter,

that I have no intention of increasing or applying to increase any of the claims. I have given my information by word, that I expect in one case that I shall have to determine one of the branches of the case is outside the terms of the reference and I may have to apply to abandon it. In another case I have given him full particulars with regard to the claim. The claim stands as it was in the first instance. As your lordship is aware I have been engaged before this Commission continuously.

THE COMMISSIONER: I appreciate that, but we cannot wait indefinitely. I would like to have these things dealt with in terms of the present rather than the future. It is more than ten days since I discussed this matter with counsel, and gave a direction, and nothing seems to have happened.

MR. MCMASTER: My understanding was it was to be five days before the case was heard when these particulars were to be in, at least five days. I don't want to stretch it any further than I have to, but I don't think I have been unreasonable.

THE COMMISSIONER: Is not your case set to come on first, after the general evidence?

MR. MCMASTER: No, it is the Royston Lumber Case comes on tomorrow.

MR. MCPHERSON: I would like the impression to be abroad that I am to blame in regard to

co-operation with the other counsel. I have made my point here, and you ask me for a decision as to whether I was agreeable to Mr. McMaster's proposal that his client's should put in their evidence in writing. I said I should prefer to reserve my decision on that until I know what the claim is, and in the particular case I am thinking of it may be substantially reduced.

THE COMMISSIONER: I take it we will be several days on the Royston Case?

MR.MCLENNAN: I think we will be a full week.

THE COMMISSIONER: So, in the meantime, Mr.McMaster will be able to get this information to government counsel, but I would like to repeat that it is of the utmost importance that the exchange of information between government and claimant counsel should be given as promptly as possible. I do not want this proceeding to carry on for the rest of my life, and there is every indication it is going to unless we do something to speed it up. Then there is no alternative but to adjourn until tomorrow.

MR. MCMASTER: I would like to speak to the case of M. Ebisaki. Permission was granted or leave to file a claim on behalf of the partners in that partnership and I spoke to it in the general evidence conducted by my learned friend Mr. Hunter. We have now the claim form drawn and sworn. I draw your lordship's attention to the fact we have been unable to state the

amount for which the assets were sold by the Custodian. The claimant has been endeavouring to find out that information for several years, and he still has not got the information. I would ask to file the claim and perhaps my learned friend--

THE COMMISSIONER: An order has been made, has it, authorizing the filing of this claim late.

MR. MCMASTER: Yes, in Nelson. I think originally they had a claim, a partnership claim for shares in the partnership.

THE COMMISSIONER: IT is merely a matter of amending the claim.

MR. MCMASTER: I think it was ordered on a speparate claim-with respect to the partnership would be filed.

THE COMMISSIONER: Have you anything to say in this regard, Mr. Hunter?

MR. HUNTER: No, except in sofaras not being able to get information from the Custodian. The files are there and they can be inspected at any time. In fact, one of Mr. McMaster's representatives came down and inspected them. I don't see how he can say he did not get that information.

THE COMMISSIONER: I hope we have reached the end of this bickering. We have got along extremely well until the opening of the proceedings. Apparently there should be co-operation on both parts, and I tell you, if this thing continues I shall be extremely impatient with it.

(PROCEEDINGS ADJOURNED UNTIL OCTOBER 14, 10:00 AM)

I hereby certify the foregoing to be a true and accurate report of the said proceedings.

Deputy Official Stenographer

GENERAL EVIDENCE

THE JAPANESE PROPERTY CLAIMS COMMISSION.

B E F O R E

(THE HONOURABLE MR. JUSTICE H. I. BIRD - COMMISSIONER)

Vancouver, B.C.,

November 29th, 1948.

PROCEEDINGS AT HEARING

(Pages 136 - 232)

Reeve. Urban appraisals 136-183

Barnett V.L.A. deal 184-end

Vancouver, B.C.,

November 29th, 1948, 10:00 A.M.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

J. W. G. HUNTER, Esq., and D. BRAIDWOOD, Esq., appearing for the Dominion Government.

R. J. McMASTER, Esq. appearing for the Claimants.

THE COMMISSIONER: Mr. Hunter, what are we on this morning?

MR. HUNTER: My lord, Mr. Braidwood is taking it, starting with Mr. Reeve.

MR. BRAIDWOOD: Yes, my lord. We are resuming the general evidence, with that of Mr. Reeve, whom we are calling at the moment, if your lordship is ready.

THE COMMISSIONER: Yes.

DOUGLAS WILLIAM REEVE, being first duly sworn, testified as follows:

MR. BRAIDWOOD: My lord, Mr. Reeve has already appeared before your lordship in the United Marine Products case, and in that matter Mr. McPherson filed with the Commission a statement of Mr. Reeve's qualifications.

I have been discussing the matter with my friend, Mr. McMaster here, and rather than go over the long list of Mr. Reeve's qualifications, and, subject to your lordship's directions I would suggest that the memorandum filed in that case

be taken as read into the general evidence, also.

THE COMMISSIONER: That is satisfactory. Is there any objection, Mr. McMaster?

MR. McMASTER: No, my lord.

MR. BRAIDWOOD: There is one other question, my lord, on Mr. Reeve's qualifications which I should like to ask him, which doesn't appear in the material filed.

DIRECT EXAMINATION BY MR. BRAIDWOOD:

Q Mr. Reeve, have you ever been associated with a real estate business in any way?

A Oh yes, that is my business.

Q Would you describe your activities in that business to his lordship?

A I have been engaged in all the usual branches of the real estate business.

THE COMMISSIONER: This is not necessary, from my point of view. I have known Mr. Reeve for a good number of years, but if Mr. McMaster wants it on the record, all right.

MR. BRAIDWOOD: I think the witness has given his general qualifications anyway. If Mr. McMaster wants to, he can come back to it in cross-examination.

Q Now, Mr. Reeve, you were associated with certain appraisals of Japanese property, is that correct?

A Yes.

Q Would you tell his lordship what your first association with these appraisals was.

A Mr. Shears, the Director of the Custodian's Department, asked me to go and see him, and asked me if I would be willing to make appraisals, and I said yes, and following that he sent me to see Mr. McMaster, who was, I believe, Secretary of the Committee.

THE COMMISSIONER: Q: That is Mr. A. E. McMaster, is it? A: I don't remember his initials.

MR. BRAIDWOOD: Q: Was this the Mr. McMaster who was the Secretary of the Committee in Vancouver?

A Mr. McMaster, the Secretary of the Committee in Vancouver, the Advisory Committee.

Q Would you tell his lordship about the first discussion you had with Mr. Shears? Did he explain why he wanted the properties appraised?

A½ I don't remember the exact nature of the interview, but I understood they were going to offer these properties for sale.

Q And what information was requested of you?

THE COMMISSIONER: Q: I take it what you desire are the instructions that were given him in regard to appraisals?

MR. BRAIDWOOD: Yes, my lord.

A I was instructed to make appraisals on the basis of the fair market value.

Q Would you tell his lordship what you understand by fair market value.

A It is the price that would be paid by a purchaser willing but not obliged to buy to a vendor , who

is willing, but not obliged to sell.

Q Did you discuss any particular form the appraisal was to take? I mean, the specific form of the appraisal at that time.

A No. Mr. Shears required the information to be available to him to judge whether any offers received were satisfactory.

Q And when were these appraisals to be made?

A They were to be made, as required.

Q I see. A: In the first place, my interview with him was about April, 1943, and he said they were going to advertise for tenders, and the opening of tenders was, I think, on the 19th July, 1943.

Q Did you know how many properties were to be appraised in that time?

A Mr. Shears gave me a catalogue, in which there were approximately 500 properties.

THE COMMISSIONER: Q: Those were all within the city of Vancouver, or in the vicinity?

A Yes, my lord. He suggested I could do all of them, but I told him I couldn't. I said no one man could do 500 valuations in that short time, that I would do as many as I could, and he would have to get someone else, and I introduced another appraiser to him, whom I believe did some of the valuations.

MR. BRAIDWOOD:

Q You said Mr. Shears said you would have to have a talk with Mr. McMaster.

A No, he asked me to go and see Mr. McMaster.

Q You did, did you? A: Yes.

Q Was this shortly after your interview with Mr. Shears? A: Yes. Mr. Shears told me my qualifications would have to be passed on by the Advisory Committee.

Q Would you tell the Court the substance of your conversation on that with Mr. McMaster.

A Mr. McMaster wanted to know what experience I had had in ~~the~~ making appraisals. I had known him before, and in any case he knew a great deal about me, and I told him what my experience was, and he said he would report to the Committee.

Q When did you next hear from him?

A I didn't next hear from him, I heard from Mr. Shears.

Q What did you hear from Mr. Shears?

A That he wanted me to go ahead and make some valuation.

Q Did you make some valuation?

A Yes, from then on, in conjunction with some other appraisers.

Q How many valuations, in all, did you personally make, Mr. Reeve? A: 220. Those were not all catalogue valuations. I made 113 valuations in the catalogue -- no, wait a minute-- 107, and the others were made on other properties outside of the catalogue.

MR. McMASTER: Q: I am sorry, I didn't hear that reply.

A There were 107 valuations made of catalogue properties, and 113 others.

THE COMMISSIONER: Q: Was it your understanding, Mr. Reeve, that the Committee had been called upon by the Custodian to pass upon your qualifications, before your appointment was made?

A Yes, my lord.

MR. BRAIDWOOD: Q : Now, Mr. Reeve, would yougive us some idea of what type of work went into the making of these appraisals? What was your procedure?

A I would inspect the property. If there was a building on it, I would inspect the inferior as well as the exterior, and take all measurements of the buildings and make notes, with a full description of the number of rooms, the construction, the condition and everything that had any bearing upon the value.

Q Would you have any idea as to how long, on an average, a person might take to do say a house property in the city of Vancouver?

A The average house inspection would take about an hour. It depends on the size of the house, and the condition of it. If it was a very old house, inquiring into the condition might take longer.

Q And did you keep notes of your inspections?

A Yes.

Q And would you consider those to be full notes?

A Yes.

Q Did you make any other inquiries concerning the house, other than a physical inspection of it?

A Yes. I inquired as to the assessed value, the taxes and the water rates, and from the agent of

the property I would obtain information about the rentals, if they were occupied by tenants.

Q Did you take into consideration the neighbourhood in which the property was located?

A Oh,yes.

Q Did you make any inestigations of the neighbourhood at all? A: I would study the neighbourhood, and make up my mind whether the house was a suitable one for the neighbourhood, and whether the neighbourhood was a good one, or a poor one.

Q By the way, were you familiar with properties in Vancouver at that time?

A Oh, yes.

Q You had been carrying on your profession for how long, would you say, inVancouver?

A At that time?

Q Yes. A:Approximately 40 years. 39 years.

Q Would you tell his lordship, please, in general the various types of properties which you appraised

A For the Custodian?

Q Yes. A: Yes. There were houses, rooming houses, shops, factories, warehouses, schools, halls, cannery property, farm land, vacant lots, and vacant land for subdivision.

Q What about the reports, now? Would you tell us what you did about making reports on these properties? A: I would report as fully as possible, giving the dimensions of

the land, the legal description, the description of the building and the condition of the building, the assessed value and the rental value, if it was rented, and my opinion as to the value.

Q And to whom were those reports submitted?

A To Mr. Shears, in the case of the catalogue valuations.

Q They were in writing, were they?

A Yes.

Q Do youknow if these reports were used for the basis of the catalogue valuations which Mr. Shears was desirous of obtaining?

A I imagine they were.

THE COMMISSIONER: I think we had it from Mr. Shears already that they were.

MR. BRAIDWOOD: Yes, my lord. Now, my lord, I don't want to labour this witness, because I think his evidence is largely factual, but I wish to put in certain testimony taken before the Commission in the case of Eikichi Kagetsu, on November 12,1948, certain evidence for the Claimants as submitted by the witness R. A. Pound, who made certain comments on Mr. Reeve's basis of valuation, and I wish to put a short section of the transcript to Mr. Reeve, and ask his opinion on Mr. Pound's statement.

THE COMMISSIONER: Very well.

MR. BRAIDWOOD: My friend hasn't his copy of the transcript here, but he is at liberty to use mine.

MR. McMASTER: I might say I haven't read the copy yet,

but I will let my friend proceed and see what comes.

MR. BRAIDWOOD: I am reading, my lord, at page 19 of the transcript, the evidence of R. A. Pound.

THE COMMISSIONER: Mr. Secretary, will you get my copy of this particular transcript, please.

MR. BRAIDWOOD: I can put another questionor two on another point first, while your lordship is waiting for your transcript to come.

Q Now, Mr. Reeve, in your valuations you have told us how you arrived at them. Did you take into account the property transactions in the neighbourhood at all?

MR. McMASTER: My lord, I must object to my friend leading there. I think he has suggested several times, and I haven't wanted to object, but I think he should ask the witness what he took into consideration.

THE COMMISSIONER: You might be careful to avoid leading, Mr.Braidwood. I know it is some times difficult.

Q The question is, did you take into account sales of what could be termed comparable properties in the neighbourhood?

A I had some information at times about sales, but generally speaking I didn't make any special inquiry. I had a general knowledge of what was going on in the market, and relied on that. I didn't make a practice of getting a complete list of all the sales that had taken place in any particular

neighbourhood.

MR. BRAIDWOOD: Q: Mr. Reeve, you have told us your instructions were to obtain the fair market value. That is correct, is it not?

A Yes.

Q You also told us you filed with Mr. Shears certain reports. What have you to say about these reports, and the carrying out of your instructions received from Mr. Shears as to fair market value?

A I endeavoured to carry out my instructions.

Q Would you say that the values submitted by you to Mr. Shears in your reports, in your opinion --

THE COMMISSIONER: Q: "What have you to say in regard to your reports". That is what your friend has complained about.

MR. BRAIDWOOD: Q: What have you to say with regard to your reports? A: My reports, to the best of my ability and belief, were in compliance with the instructions I had received.

The wording of the reports in each case was that I was of the opinion that the market value of this property, or fair marketvalue, in some cases I used the word "fair", is so much. That is the concluding sentence to nearly all the reports.

Q Now, if I might proceed to the Pound examination at page 19, reading at about line 8, Mr. Reeve. Now, I would like you to listen to the questions and answers which I propose to read you here, and then I will ask you some questions on it.

"Q: And when Mr. Reeve gave . . . . . .

"was decreasing it."

Now, Mr. Reeve, that was the evidence of Mr. R. A. Pound in his examination in November. Have you any comment to make on that evidence?

A Yes. I don't think that Mr. Pound has a very extensive knowledge of my practice of valuations.

I know Mr. Pound quite well, and we are very good friends, but I don't believe he has ever been in my office.

In regard to his opinions on the value, principally for mortgage purposes, I do a great many valuations for that purpose, but also for other purposes. People who want to buy houses sometimes come to me and ask me to advise them how much they should pay, and I also value buildings for insurance purposes, for their full replacement value, less depreciation, and I have also valued a great many properties for expropriation purposes, from the point of view of the value to the owner.

That is a case where fair market value is required, and for many other purposes, succession duty assessment and so on. Any purpose for which a valuation is required, I have generally had to deal with it, at one time or another.

Q That is your answer to Mr. Pound's statement in this case? A: Well, I could add this, that in these cases I wasn't valuating as for a mortgage. I was endeavouring to put a proper sale value on the property.

As a matter of fact, while a mortgage value

is at certain times lower than the market value, at the present time when values in the market are very much inflated, the mortgage value would be less than the market value, but at the same time it is recognized as a mortgage value, and if I were asked to put a market value, as I have been done when advising people how much to pay for the property they were buying, I have told them the difference between mortgage value and the market value, but in 1943 there wasn't so much of a difference between the mortgage value and the market value as there is at the present time.

There were a good many cases where a premium was paid, over and above the value of the property, if the purchaser could get demand possession. There was a demand for houses for people to live in, and if demand possession was given the price would be higher than if there was a tenancy, particularly if there was a lease, because landlords were not able to get possession if they had a tenant, and they were not able to increase the the rent at that time.

In the particular case that Mr. Pound is referring to, the Kagetsu case, the tenant claimed to have a lease for two years, and Mr. Pound must have known that, and he may have been assuming that vacant possession could be obtained by the purchaser.

MR. BRAIDWOOD: Of course, this evidence I am putting in my lord, isn't in relation to the Kagetsu case as

such.

THE COMMISSIONER: I appreciate that.

THE WITNESS: Oh, I thought it referred to that.

MR. BRAIDWOOD: Q: Not the specific case, no. I wanted your comment. If you have nothing further to add to your comment on Mr. Pound's statement of your appraisal, that is all we are interested in at this point.

A I think Mr. Pound is exercising his imagination a little bit, because he doesn't know the extent of my valuation business.

MR. BRAIDWOOD: That is all, my lord.

CROSS-EXAMINATION BY MR. McMASTER:

Q Mr.Reeve, you stated you had made 107 appraisals on the catalogue, and 113 other valuations. What are you referring to, when you refer to the other valuations?

A They were valuations for properties belonging to Japanese, and one or two other nationalities, required by Messrs. P. S. Ross & Sons, or Frederick Field & Company , by Mr. K. Wright, counsel for the Custodian, in the cases of internees' properties.

Q In the main, those properties we refer to are enemy alien properties, aren't they? That is, this 113.

A: I don't know. In some cases, yes, in other cases possibly, because they were corporations whose business had to be administered. They were dealt with

differantly, I think, from the individual properties, but I am not familiar with the internal organization of the Custodian's office.

Q I understood your evidence was that with respect to comparison of these properties, that you were appraising with other properties, that you were relying on your general knowledge of sales in Vancouver? A: In most cases, yes.

Q Now, in any case, where you had specific knowledge of a sale of like property, those would appear in your notes, would they?

A Yes.

Q. Would it be referred to in your appraisals?

A I don't think so. I may have mentioned it in one or two cases.

Q Why would you not refer to them in your appraisals, Mr. Reeve? A: I had no particular reason for not doing so, except that in some cases the information that I had about sales of that particular property, or property near, was hearsay, and I didn't investigate or check the records in the Land Registry office to check those figures.

Q Mr. Reeve, what would you say is the usual way for a man that wants to sell his property to go about doing so, if he is not anxious to sell?

A If he is not anxious to sell?

Q If he is not anxious to sell, if he is going to sell but is not anxious. What is the usual way

he goes about selling it?

A He would go to a real estate broker and ask him to offer it for sale.

Q Yes, and how would he arrive at the price which he suggests as a price to the real estate man?

A He might do so, or ask the advice of the real estate broker as to what he thought he could get.

Q In advertising it for sale, he would tend to offer it at the highest price he could get, or a little higher? A: He might offer it at the highest price he could get, or a little higher.

Q What would the real estate man do about that?

A About selling?

Q Yes. A: He would probably advertise it, or speak to people he knew who were on the lookout for a house.

Q And if he advertised it, and didn't succeed in getting as much as the vendor wanted for the place, what would likely happen then?

A He would submit , probably, to the owner any offer he received of a less amount.

Q And unless those offers came fairly close to this figure he had advertised, then he might advertise again? A: That is a matter for variation in every case.

Q Yes. However, it is a frequent practice for real estate men to advertise property a number of times, is that not correct? A: Yes.

Q In all your experience with regard to the sale of

real estate, have you ever known a man who wasn't pressed to sell his property, to offer his property at public tender?

THE COMMISSIONER: For a sale by public tender?

MR. McMASTER: For sale by public tender, yes.

A An individual?

Q An individual, yes. A: Very seldom. I don't recall any cases.

Q Mr. Reeve, you have given evidence in many expropriation cases? A: Yes.

Q Is it not your experience that reputable appraisers often have a very wide divergence of opinion as to the fair market value of real property?

A Yes.

Q And would you not say if one were anxious to determine the fair market value of property, it would be unwise to rely on the opinion of one appraiser only? A: I wouldn't say that it was unwise. It depends on the confidence you have in that appraiser.

Q Would you expect to find two appraisers working independently would arrive at exactly the same value? A: It has been done.

Q It has been done, but it is fairly rare, is that not true? A: On the other hand, quite frequently appraisers come within, say, 10% of each other.

Q And quite frequently they are considerably further apart than that, is that not correct?

A I think it is mostly in cases where there is a dispute, that the big difference comes in, because there is a tendency to become an advocate, in some cases.

Q Now, Mr. Reeve, I haven't been able to go through all the cases of the claims before this Commission, but I have here ten examples of where more than one appraisal of Japanese property was used by the Custodian. A: Yes.

Q I would like to show you this list, which shows the case numbers on it. Now, does that represent, in your opinion, the variation which one might expect to find between competent appraisers?

A In some cases there seems to be a bigger spread than here.

MR. McMASTER: I would ask to file that as an exhibit, my lord.

THE COMMISSIONER: These, I take it, Mr. McMaster, are actual appraisals which we have had in evidence at some time during the course of the Commission?

MR. McMASTER: That is correct, my lord. I have given the case numbers in each one.

(LIST MARKED GENERAL EXHIBIT NO. 55)

Q Now, Mr. Reeve, would you say that the ordinary real estate man that you know thinks that the 5% commission that is payable to the real estate man is more than fair compensation for their services? A: Would you mind repeating that question?

Q Is the ordinary real estate man that you know of

thinking that the 5% commission is more than fair compensation for his services?

A No, I don't think he does.

Q And is it your experience that if a real estate man thinks he might have to split the ordinary commission with another agent on the sale of a piece of property, that he doesn't have the same enthusiasm to promote the sale of the property?

A That is correct, in some cases.

Q Have you found that the ordinary real estate man goes out of his way to promote sales of land offered by the Land Sales Department of the City of Vancouver? A: I am sorry, but would you mind repeating it?

Q Have you found that the ordinary real estate man goes out of his way to promote the sales of property offered by the Land Sales Department of the City of Vancouver?

A I don't know. That might apply to some agents in a certain locality-- a local agent, who was interested in building up his district.

Q In other words, he might use it as a means to build up his business?

A Yes.

Q I would suggest to you one reason why there isn't more enthusiasm amongst real estate agents for the sale of property is the delay in getting any sale approved by the city. That is, it has to go through the Land Sales Committee.

A That depends on circumstances. I have had cases

where clients wanted to buy property belonging to the city, and they have asked me to submit an offer to the city, and they were ready to wait until they got a decision.

Q But if they hadn't been willing to wait for several weeks, or a month, you probably wouldn't have made the sale?

A Well, I don't think it is possible to make any general statement about that.

Q Would you say that the ordinary buyer usually wants a firm contract and a specific date for the completion, before he makes a deposit on the property? A: He wants an answer quickly, yes.

Q I understand that you were the first appraiser appointed by the Custodian, Mr. Reeve. That is, of the city property?

A I believe so, but I don't know for certain.

Q And subsequently you were asked to recommend other appraisers. A: Yes.

Q Did you recommend J. R. Reid & Company?

A No.

Q Did you recommend Pemberton's?

A No. Mr. Moore, of Pemberton's, made some valuations, but I met him at the Custodian's office. I hadn't suggested his name, I don't think.

Q Did you recommend Mr. Cleland?

A Yes.

Q Did you recommend Mr. Fairhall?

A No.

Q Did you recommend Loewen & Harvey?

A Yes.

Q And Coulthard & Sutherland Company in New Westminster? A: No. I didn't have much to do with New Westminster.

Q So that the only persons you recommended were Mr. Cleland and Loewen & Harvey, is that correct?

A Yes. I may have mentioned some other valuators, leaving it to the Custodian to make his own inquiries.

Q In addition to the ones I have mentioned?

A Yes. I may have mentioned Mr. Reid's name.

Q Now you know of these firms, or persons, do you not, J. R. Reid & Company, Pemberton's, Cleland, Fairhall, Loewen & Harvey, and Coulthard & Sutherland? A: Yes.

Q Would you expect those persons or firms would appraise property on the same basis as yourself?

A I don't see why not.

Q Would you expect them to be more liberal or more conservative in their valuations than yourself?

A It is a very hard question to answer. I don't know how they do it.

THE COMMISSIONER: Questions of that character are bound to be embarrassing to anyone in the witness's position. He may have ideas with regard to other appraisers, but he would hesitate to express them.

MR. McMASTER: Q: Would you agree that the appraising of real estate is not an exact science?

A Yes.

Q And would you expect that a good appraiser, or a competent appraiser would sometimes fix a value over and above what theproperty would fetch, if it were offered for sale?

THE COMMISSIONER: Is that not fairly obvious? We all err at some time.

MR. McMASTER: I would like to have the witness's view of this, my lord.

A He might, in the case of a really attractive property.

Q In the case of a really attractive property, you think he might be above?

A He might become enthusiastic.

Q Would you expect sometimes he would fix a value below what the property would fetch?

A Yes, in some cases.

Q How much margin on either side of the market price would you allow a good appraiser?

A You can't give any percentage, because every piece of property there -- the differences that exist between appraisers is caused in some cases by more particular observation by some men than with others.

THE COMMISSIONER: What is your yardstick?

MR. McMASTER: What it will actually fetch in the market.

THE COMMISSIONER: What it will ultimately realize?

MR. McMASTER: Yes, my lord.

THE COMMISSIONER: Surely, that depends on the vagaries of the individual purchaser, does it

not?

MR. McMASTER: To some extent, yes. It depends on the market. That is what the appraiser is trying to judge, or express an opinion about.

THE COMMISSIONER: There might be circumstances where one would offer 25% more because the property has a peculiar value to him.

THE WITNESS: May I mention something which occurred in my own experience, my lord, to show what a difference can occur? My partner, the late Mr. Johnson, had been trying to sell a house in Fairview, an 8-roomed house, for two months at $4,000, but he couldn't find a buyer or get any offer from the people he showed the house to.

He asked me to go and look at the house with him and tell him what was the matter. It was one of those old houses with shingles stained dark brown and a dark brown trim. Everything about it was dark brown. I told him to paint the trim white, or cream, and decorate two rooms inside at a cost of $125.00, and he did that and sold the house within three weeks for $4500.00. There may be little things like that, that would make a difference.

MR. McMASTER: Q: He took several months to get the fair market value, is that right?

A About two months.

Q Now, would you say, Mr. Reeve, that an appraiser whose values are consistently below what the property fetches when it is sold would be a con-

servative appraiser?

A Would he be conservative?

A: Yes.

Q Yes.

Q Do you consider yourself a conservative appraiser, Mr. Reeve?

A: Generally speaking, yes.

Q And in making these appraisals for the Custodian, you would say they were conservative appraisals?

A Well, they were made on this basis, that you have to consider that in order to make a sale a willing buyer is necessary as well as a willing seller.

In arriving at the fair market value, you will have to put a price on it which it will sell fairly rapidly at.

Q Why do you add that phrase, "which will sell fairly rapidly"? Was that indicated to you, that there was any urgency to dispose of these properties?

A: No, there wasn't, but if you put too high a price on you might take 12 months to sell it. I wouldn't put what I would consider the current fair market value. That would be a little in excess of the market value.

Q What price would you consider to be the fair market value?

A: The price at which it would sell within six months.

Q Now, Mr. Reeve, I have gone through a lot of these appraisals that you made for the Custodian, and so far I haven't beenable to find any

cases where the property sold by the Custodian at less than your appraisal, and in a number of cases I find that the property sold by the Custodian, within two months after your appraisal, was from 15 to 25% higher than your appraisal.

A Yes.

Q Can you explain why that would be?

A Well, I don't think, with regard to the first part of the question, the Custodian would sell for less than the amount of my appraisal.

THE COMMISSIONER: You know, Mr. McMaster, that that policy had been laid down by the Custodian's office. I reaall a number of instances of Mr. Reeve's appraisals, where he was asked to appraise again, because the amount of his appraisal could not be realized.

MR. McMASTER: Q: In those cases, you reduced your appraisal, is that correct?

A Not in all cases. I remember Mr. Shears asked me once or twice whether I would recommend accepting an offer at less than the appraisal, and I would study the matter and look over my notes again and discuss it with him, and if it proved that he had a certain number of tenders which would indicate some desire to acquire that property, and a number of buyers, and none of the tenders came anywhere near the appraisal, I think I have recommended in one or two cases he should take about 10% less than the amount of the appraisal.

MR. McMASTER: I would like to file, my lord, as an

exhibit, a list of cases. I think there are 14 here. I don't suppose they are complete ~~xxx~~ by any means at all, of cases where properties were appraised by Mr. Reeve and sold within two months after appraisal by the Custodian. Perhaps Mr. Reeve would like to look at it and make any comment, if he has any to make.

THE WITNESS: Yes. The only comment I think I can make on that is that may have been the result of a method adopted of calling for tenders. That introduces the element of competition.

MR. McMASTER: Q: Did you not take into consideration the element of competition in making your appraisals, Mr. Reeve?

A Yes, but I couldn't tell exactly how many buyers wanted any particular property.

Q Did you not have any idea of what the group of buyers would be for any particular property?

A No. You can only find that out by putting it on the market, and looking for buyers. Youmight find unexpectedly there were half a dozen people who want it, but on the other hand you might find only one man who wants it.

Q At that particular time, you mean?

A At the time you are offering it for sale, but it is impossible to tell the number until you find out how many there are.

Q At that time? A: At that time.

Q Is it not possible, from your general experience, to have some measure of the type of buyers who

would be interested in the property and some indication as to approximatây how many there would be interested in that type of property?

A Oh, in a general way.

Q Did you take that into consideration in making your valuation? A: Yes. The desirability of the property, that has an effect on it.

MR. McMASTER: I will file that as the next exhibit.

(LIS T MARKED GENERAL EXHIBIT NO. 56)

MR. McMASTER: My lord, I would like to refer to the specific case, No. 1019, which is a Toronto case, and to Mr. Reeve's appraisal in that case.

Q Mr. Reeve, you appraised a number of building properties east of Main Street, is that correct?

A Yes.

Q And with respect to one or more of these cases, Mr. Durkee, who succeeded Mr. McMaster as Secretary of the Vancouver A dvisory Committee, raised some question with regard to the f act that your appraisals were so much below the assessed value of the premises. A: The city assessment, yes.

Q The case I am going to refer to now is one of the cases in which you gave Mr. Durkee a fairly full report, and I would ask, my lord, that reference be made in the transcript to this case.

THE COMMISSIONER: Which number?

MR. McMASTER: Particularly to the appraisal in case No. 1019.

Q Now, I would like to show you a copy of your appraisal in that case. This is a proper copy, is it (producing)?

A Yes, I think so.

Q I wonder if you would be good enough to read it through and refresh your memory with regard to it?

THE COMMISSIONER: I would be surprised if Mr. Reeve has memory of an individual case when he made over one hundred of them.

THE WITNESS: I remember a good many of them.

MR. McMASTER: This one, I think, was particularly drawn to his attention at the time, so he probably recalls it. My lord, I would like to have a copy of this appraisal before your Lordship before this cross-examination goes on. I suggest if we are going to take a break, we might take it now and the Secretary might get the file in that case.

THE COMMISSIONER: Very well. Mr. Secretary, would you have file No. 1019, is it --?

MR. McMASTER: That is correct, my lord.

THE COMMISSIONER: Will you have it brought up? We will recess now for a short time and you can get the file in the interval.

(PROCEEDINGS RESUMED AFTER A SHORT RECESS)

DONALD WILLIAM REEVE, resumed the stand, testified further as follows:

MR. McMASTER: Q: Now at the time we adjourned, Mr. Reeve, I had referred you to your appraisal in

case No. 1019 on premises that 2495 East Georgia Street.

A Yes.

Q And your letter to the Custodian, dated August 16th, 1943. I believe you have a copy of that in front of you? A: Yes.

Q Now, at the time that you made that appraisal, Mr. Reeve, were you aware of the fact that the Japanese had rented these premises under the circumstances of being faced with evacuation?

A I will just have a look at my notes and see if I had any knowledge of that.

I have a note in connection with the tenancy, that there was a lease for three years for the rooms, and two-thirds of the basement, expiring the 1st of August, 1945. The tenant had an option to renew that for a further three years at a rent to be fixed by agreement or arbitration. The lease, however, was subject to the lessor's right to re-purchase the furniture at a price to be agreed upon or arbitrated, and that the tenant had purchased the furniture for $2800.00.

Q And that lease had been made on September 1st, 1942, or thereabouts? Is that right?

A Yes.

Q You were aware of the fact that the Japanese were evacuated between March and September, 1942; that is, the main group of them?

A In a general way, yes.

Q Do you consider that the rental which was

reserved in that lease was a fair rental for the remuneration of the Japanese?

A Yes, a pretty good rent. $2.60 a room.

Q That is the rental to the head landlord, the Japanese claimant?

A The rent that the tenant was paying, yes.

THE COMMISSIONER: Q: That is a rental of $1880.00 a year, is that correct?

A That includes the rent to the ground floor. The rent of the rooms was $1400.00 a year. The ground floor was rented at $40.00 a month.

Q You say the $1800.00 rental annually was a fair rental? A: It was a fair rental.

MR. McMASTER: Q: Did you make any memorandum, Mr. Reeve, as to what the tenant was re-renting the rooms for in these premises?

A No, because that has no bearing on rentals income, and he has to pay all the expenses of operating the rooming house out of the rent that he receives per room.

Q You didn't, in any event, make any memorandum at that time? A: No. The tenant has to get wages out of it.

Q Was it your experience that in 1943 buyers for this class of property expected 10% on the amount invested, after making an allowance for depreciation and contingencies?

A I imagine he would want that much, at least.

Q You state that in the second paragraph of page 2

of your letter? A: Yes. In my letter I said twelve percent.

Q I think you said twelve percent before allowing for depreciation and contingencies, and ten percent as the absolute, net amount?

A Yes.

Q Do I understand correctly that such an investor would expect to receive that on his investment -- receive all his investment back in ten years?

A No, not necessarily because that ten percent return takes care of other contingencies which are not calculated in arriving at that.

Q What contingencies are those?

A Such as vacancies.

Q You allowed for vacancies before arriving at the ten percent, I take it, Mr. Reeve?

THE COMMISSIONER: Q: On the second page you allow for vacancies $50.00? A: Oh yes, my lord. That is a very small allowance. As a matter of fact, after depreciation and contingencies, it shows a net return of $705.00, and my valuation showed a little higher percentage than that. Ten percent of that would only have been $7000.00, and I put a valuation on of $8000.00.

MR. McMASTER: Q: I am referring to your statement there that the type of investor that would be interested in this kind of property would expect, after making an allowance for depreciation and contingencies, ten percent return on his investment? A: Yes.

Q So that his investment would be paid off in ten years? A: He hopes, yes.

Q And at the end of that ten years, in addition to having his investment back, he would have a building that was in reasonably good state of repair, because you have allowed for repairs and you have also allowed for depreciation?

A Yes.

Q Actually, he would be repaid his investment in less than ten years, because you allow $250.00 a year depreciation?

A Yes.

Q And your appraisal for the Custodian on buildings of this class -- you were faced with that opinion, is that correct -- that is, that that was what investors in this class of property would expect?

A Yes.

Q Now, referring again to paragraph 2 of your letter, on page 2, Mr. Reeve, --

A Yes.

Q -- I am sorry, the first sentence in the next paragraph, "In a district of this kind the letting of rooms is affected seriously in times of depression". At the time of making appraisals for the Custodian, could you foresee or anticipate any period of depression in the next five years or ten years? A: You never know when it is coming.

Q At the time you made your appraisal there was no very great danger of a depression within five

to ten years?

A I don't remember if I had any set feeling, but I could remember the first Great War. There was a depression going on most of the time.

Q However, you are aware during the last war in 1943 when you were making that appraisal there were certainly no signs of depression at that time? A: Not particularly, no.

Q And the war was still very much in the process of going on? A: Yes, and it was quite a worry.

Q Yes. Did you anticipate that the trends of that time would be reversed in the next five or ten years? An upward trend of prices? Did you anticipate that that situation would be reversed during the next five to ten years?

THE COMMISSIONER: The witness has not said anything about there being an upward trend of prices at that time.

MR. McMASTER: I had better ask him on that.

Q Would you agree that in August, 1943, there had been a definite upward trend in the price of real estate, and other things?

A In some kinds of real estate there had been an upward trend.

Q And in labour and materials, and the things that went into making buildings there had been an upward trend, is that correct?

A Yes.

Q And was there any sign of that trend being reversed in, say, a period of five years at that time?

A Nobody could tell about it.

Q You felt doubtful about it, did you, when you made these appraisals?

A I don't know that I felt doubtful, but it is always as well to look out for those things. A buyer investing money in a building of that kind would take it into account.

Q At the time you made that appraisal, did you anticipate that the housing situation in the City of Vancouver was going to be satisfied within a period of five to ten years?

A I don't know that I had any particular views on that. There was some shortage of accommodation at that time.

Q And whether or not a rooming house such asthis would be affected would depend largely on the demand for living accommodations, let's put it that way? A: No, because the kind of people that live in rooms of this kind are different from people who are looking for houses.

Q But they still live in rooms, don't they?

A Yes.

Q Was rooming house accommodation in short supply at that time? A: No, I don't think so particularly.

Q You are aware of the fact that the Government made certain provisions to protect tenancies

in rentals in rooming houses at that time?

A Yes.

Q I suggest to you that the reason they made that provision was because rooming house accommodation was in short supply. Would you disagree?

A I don't think I disagree, or agree. Offhand, it is difficult to remember exactly what the situation was.

Q Would it be fair to say, Mr. Reeve, that you always take a long-range view in making your appraisals? A: Not always, no.

Q In the appraisals which you made for the Custodian, would that be a fair assumption?

A In the case of very old buildings that had obviously a short life, I would figure on how long the building was likely to last and whether the rents could be maintained, but, generally speaking, I was trying to put myself in the position of a purchaser and decide how much one could afford to pay for a property like that.

Q Referring to the next paragraph in your letter, the one beginning, "In considering the market value", I will just read it, "We have also the fact . . . is required".

A Yes.

Q Would you say that these observations apply not only to that type of building, but also to the other types of properties which the Custodian had to offer? A: They would apply

in the case of some of the houses.

Q And did you take the factors referred to in your letter into consideration in making your appraisals for the Custodian?

A That particular sentence?

Q Yes. A: In some cases, but not very seriously.

Q Did you in this case?

A No, not particularly. That is a general observation.

I added a number of general observations in this letter for the information of Mr. Durkee because I had several discussions with him about the bearing of assessed values or the ratio between assessed values and market values, and in connection with that, my lord, I made a memorandum in April, 1944, for Mr. Shears. We had several discussions about the difference between assessed values and purchase prices, and I made this memorandum for him, to give him general information on the subject of the basis of assessments. This is on the difference between values for municipal assessment and market values.

THE COMMISSIONER: Q: Would you say that assessed values are a safe criteria of market value?

A No, my lord. The basis used in making assessments is different in a great many aspects. I have been an assessor myself. I was on the Assessment Commission in Vancouver for 1928, and

I have made assessments in other cities besides Vancouver, and it is a business in itself. It may approach the market value, or it may be lower or it might be higher, and I have explained a lot of those differences in this memorandum.

THE COMMISSIONER: Incidentally, Mr. McMaster, there is a rather interesting comment by the President of the Exchequer Court in the Lawson case on the subject we have just been discussing.

MR. McMASTER: Yes, I believe that is so, my lord.

THE COMMISSIONER: My impression would be that assessed values frequently bear very little relation to market values.

THE WITNESS: I agree with that, my lord.

MR. McMASTER: Q: Mr. Reeve, was it your experience that other properties of this type were selling in the summer of 1943 at half of their assessed values? Was it your experience with other properties of this type, that is the type we have been discussing, that they were selling in the summer of 1943 at half of their assessed value?

A I don't know about the summer of 1943, but I have a memorandum in my notes on this particular property that a similar building west of Main Street -- this particular property, by the way, is east of Main Street -- a similar property, and this is just information I had received, my lord, west of Main Street on Cordova Street, or the same street, in better condition, with more plumbing and a better loca-

tion and with a net rent of $1360.00 before depreciation peryear -- in this particular case it was $990.00 -- was bought by Japanese for $7500.00 in 1940.

Q Yes. You actually appraised that building, if I remember rightly, Mr. Reeve.

A Which one was that? Yes, that is right. 139 to 143 East Cordova Street.

Q Have you the name there?

A The name of the owner?

Q Yes. A: No. It is file No. 3638. That is the Custodian's file number.

Q I am afraid the Custodian's file number doesn't help. I have a memorandum on that some place.

A I note from my report that this other property, my lord, that the surplus at that time before depreciation was only $880.00. I said in my notes here it was $1360.00. That must have been at the time he bought it. Apparently the revenue had gone down, but in this other case, 139 East Cordova Street, although the surplus at that time was only $880.00, I added $120.00 for a possible increase of rent on the ground floor. I thought the rent of the ground floor was too low, $130.00 a month.

Q Actually, your appraisal of that building was --

A $8000.00.

Q In the same amount as the place we have been discussing? A: Yes.

Q Did you make any inquiries at all to ascertain the

circumstances under which the Japanese had purchased those other premises for $7500.00?

A That apparently was these premises at 139 East Cordova Street.

Q That is right, yes. A: He still owed a balance of $3200.00.

Q Did you make any inquiry as to the circumstances under which he purchased them?

A No.

Q The claimant himself in that case gave evidence with regard to that, Mr. Reeve. The owner of the property was in England and had taken the property back from the defaulting purchaser and was influenced to re-sell, and he states he got a very good buy for $7500.00. Would you not agree that he did? A: Not specially, no.

Q Have you ever compared this property in Case No. 1019 that we have been discussing with any other property besides this Japanese property?

A In what way?

Q As to the market value, for that type of property?

A I don't remember whether I had any other information about other sales, but I inspected several properties of this kind.

Q And in almost every case, Mr. Reeve, you placed a value which was very close to half of the assessed value, is that correct?

A Not always. I didn't depend upon the assessed value at all, because I know that at that time,

and perhaps even now, the assessor would in valuing a building of that type, would deal with it more on a structural basis than on a revenue basis.

Q Yes, and your appraisal was based almost entirely on a revenue basis? That is correct, is it not?

A Yes.

Q Do you know, Mr. Reeve, whether property in the Powell Street and Georgia Street east area along Main Street, was selling at or near the assessed value in 1943? A: No.

Q Do you know anything about what it was selling at in 1944? Was it any closer to the assessed value? A: I can't say off-hand.

Q Or for any other year, as far as that is concerned?

A No.

Q I would like to show you, Mr. Reeve, nine cases of appraisals which you made of property which are east of Main Street, or west of Main Street. I think there is one exception there, a Dundas Street property.

A Yes.

Q Setting forth the case number, your valuation, the appraisal of the property, the assessment, and the Custodian's sale price. Now, have you any comment to make with respect to that?

THE COMMISSIONER: What significance do you attach to this list, Mr. McMaster?

MR. McMASTER: There are two things of significance,

my lord, that I would put this in for as a basis of argument, in any event; first of all, the appraisals are fairly consistently close to half the assessment. In the second place, the Custodian's sales prices are consistently and considerably higher than the appraisals. $57,000.00 on the appraisals as against $71,000.00 on the sale prices.

THE COMMISSIONER: These are in the Powell Street area, east of Main Street, is that right?

MR. McMASTER: Yes. There is one there that there might be some objection to.

Q How far out is Dundas?

A Oh, it is quite a distance.

Q It is hardly, really, in the same category as the other groups? A: No, it isn't close inq

MR. HUNTER: My lord, I wonder if my learned friend could give any information as to the date of the valuation and the date of sale, because without them it isn't a true picture.

THE COMMISSIONER: It is not very helpful if the dates are not there. Perhaps Mr. McMaster could do that.

MR. McMASTER: I could do that in a supplementary manner, my lord. It is all on file, but I will have it dug out.

THE COMMISSIONER: Yes. You can do that in the course of the day, or later. You are putting that document in, are you?

MR. McMASTER: Yes, my lord.

(LIST MARKED GENERAL EXHIBIT NO. 57).

THE WITNESS: Would your Lordship like to have a copy of this memorandum that I referred to just now about the difference between assessments --

THE COMMISSIONER: Q: Which?

A The difference between assessments and market values.

THE COMMISSIONER: It might be helpful, yes.

MR. McMASTER: That is going in, I take it, as the Commission's document, my lord.

MR. BRAIDWOOD: I would put that in, my lord.

MR. McMASTER: Unless my friend is willing to put it in.

THE COMMISSIONER: Q: This is a memrandum that you furnished to the Diregtor of the Custodian's office? A: Yes, my lord, April, 1944.

(MEMORANDUM MARKED GENERAL EXHIBIT NO. 58).

MR. McMASTER: Q: Just referring to Exhibit 58, Mr. Reeve, the last part of it, what were you referring to there when you suggested that the buyer has a strategic advantage over the owner who is anxious to sell and has told him to expedite it? A: That refers to what is known as a buyer's market.

Q Were you referring to the Custodian sale in that memorandum? A: No, not particularly this.

Q What was the purpose in making that comment?

A That was a general observation.

Q Has it anything to do with the matter you were discussing? A: It has to deal with the difference between assessments and market values. Sometimes they are higher and sometimes they are lower.

Q When a large number of properties are available for sale and the owner is anxious to sell, then you would expect to find the sale price below the assessments? A: Exactly, when there are more people wanting to sell than there are wanting to buy, the prices go down.

THE COMMISSIONER: Mr. McMaster, there are one or two questions I would like to put to the witness that perhaps it might be better for you if I put them now, so you can pursue it, if you so desire.

Q Referring particularly, Mr. Reeve, to your comment in the appraisal made in case 1019, you say, "In considering the market value . . . is required". Now, would you comment further on that statement? First of all, was the fact that a large number of properties falling roughly in the same category were being offered on the market by the Custodian at that time a factor that was likely to depress the price?

A It would have that effect, my lord, yes, to some extent.

Q To how great an extent?

A It is pretty hard to say because it was impossible to tell before these offerings were made whether there were going to be a sufficient number of

buyers to create competition among the buyers?.

Q Well, I take it that your reference to the requirement of payment in cash for the full purchase price also was likely to have an adverse effect on the market?

A The cash value is usually lower than the price when the terms of sale are easy.

Q Now, having in mind your knowledge of the sales actually made of these properties, did either factor bring about a lesser market price had the sales been spaced more widely?

A You mean if the sales had been spread over a longer period?

Q Yes. A: Well, I am inclined to view that in this way, my lord, that if a special effort is made to sell a number of properties, the vendor is concentrating on making those sales, but if it is spread over a long period, it is liable to drift and it might not have been possible to sell some of the properties at all.

Q To what extent were these properties sold on a market already glutted by the large number of similar properties already being offered?

A As a matter of fact, my impression was there were so many buyers interested in these properties that the market was better than would have been anticipated. I mean, the number of buyers was larger than anybody thought would be the case.

Q Am I right in inferring from your answers that you do not consider that the fact there were a large number of such properties then on the market within a period of eighteen months had any adverse effect?

A At the time I made the valuations, my opinion was the price would be reduced by that condition.

Q That it would be? A: Yes.

Q As to your observation of what actually did happen, were your fears realized?

A No. I think the prices were better than anticipated in some cases because there were a number of Chinese buyers who were competing with each other to get some of these properties. That is why I think in some cases the prices realized were higher than my valuation.

THE COMMISSIONER: All right.

MR. McMASTER: Q: Mr. Reeve, is it your practice in making valuations of this type of property that we have been discussing to base your valuations on rentals, that is on income?

A In this particular class of property, yes. That is what a buyer is looking for. He wants to know how much.

THE COMMISSIONER: Q: That is in regard to a rooming house? A: In regard to a rooming house and a store, he wants to know how much income he is going to get out of the property. Of course, there are cases where a buyer of that kind would perhaps operate the rooming house himself and make, in addition to

the rental value, a profit on the furniture and the work that he would do in giving service to his roomers.

MR. McMASTER: Q: That type of buyer might be prepared to pay more than the other type of buyer then? A: Yes.

Q Do you apply that method of appraising to other types of property besides rooming houses, Mr. Reeve? A: Oh yes, office buildings and income properties generally,-- apartment houses.

Q Warehouses? A: Well, warehouses are nearly always bought by the people who are going to use them. That is more of a question of use value than income value.

Q What about house properties where there are tenants in on a rental basis?

A Well, there is very little demand for rented houses. Unless people can buy a house very cheaply, they don't buy a house for the rent they can get out of it. Having any house property tenanted isn't a good investment from an income point of view.

Q Did you consider that these properties we have been discussing had any speculative value in 1943? A: Which particular one are you referring to?

Q I am referring to these rooming houses and combined rooming houses. In each case there was store space below of some fashion?

A No, I didn't consider there was any speculative value.

Q You didn't put a value for speculative purposes then in appraising that type of property in 1943?

A No, except in the case of 139 East Cordova I did raise the rental value, because I thought that was too low. I thought they might get more rent, and gave them the benefit of the doubt.

Q Did you take into consideration in appraising that type of property the possibility of the premises being put to other use than the use to which it was being put?

A Did I imagine it in this case?

Q Yes, did you take that into consideration?

A No, because the building was built practically for that purpose.

Q I see. A: And you can't convert the rooms into something else without the expenditure of a great deal of money, and I can't imagine for other purposes that it would be more profitable.

Q I take it you arrived at your appraisal purely on the basis of the rentals that would be received by an investor purchasing the building and wanting ten percent net?

A Yes.

Q And is it fair to state, Mr. Reeve, that if the rentals had been the same in 1942, you would have arrived at the same value in that year as you did in 1943? A: Probably.

Q And likewise in 1944? You would arrive at the same value as in 1943?

A Well, 1944 was a little better year than 1943. Things were looking a little better.

Q Are you suggesting that in 1944 you would have added a speculative valuek to the investment value? A: I don't know whether I would call it a speculative value.

Q There couldn't be any differenced in the rental.

THE COMMISSIONER: Let us get the witness' answer first.

A I think it is possible, as time went on and things looked better, I might have capitalized them at a lower rate of interest which would have given a slightly higher value.

Q You suggest then a person willing to invest in this type of property in 1943, that they would want ten percent net, but that in some other year they might be satisfied with some other percentage, is that right?

A They might be. It all depends on conditions.

Q Mr. Reeve, after you made these appraisals did you have any occasion to be advised by the Custodian at what prices the property sold?

A No. I think on one or two occasions, or two or three occasions, I may have inquired, but, generally speaking, I don't know what the property sold for.

Q So, in the main, other than what you bumped into on the occasional subsequent sale in Vancouver, you have very little knowledge of what

those properties actually were sold for by the Custodian? A: Very little.

MR. McMASTER: That is all.

RE-DIRECT EXAMINATION BY MR. BRAIDWOOD:

Q There are one or two questions, my lord. Do you know of your own knowledge how long a time it took to dispose of these properties, Mr. Reeve?

A No.

Q Do you know whether they were sold over a period of time or not? A: No.

Q Had you any information as to the minimum amount put on the properties by the Committee? You know the figure to which I am referring to, the minimum sale price which the Committee used? Do you know what relationship that bore to your appraisal? A: No, I don't.

MR. BRAIDWOOD: I think that appears in the evidence we already put in. They didn't confine themselves necessarily to the appraisal.

That is all, I think, my lord.

THE COMMISSIONER: All right, thank you, Mr. Reeve.

MR. BRAIDWOOD: My lord, my friend, Mr. Hunter, is going on at this time.

MR. HUNTER: I will go on with the evidence of I.T. Barnet, my lord.

(Witness aside)

IVAN TEMPLIN BARNET, a witness called on behalf of the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HUNTER:

Q Mr. Barnet, in 1942, you were the district superintendent of the Soldier Settlement Board?

A Yes.

Q And in 1943 you were the district superintendent of the Veterans' Land Act?

A Early in 1943 I was acting, and later the position was confirmed.

Q Have you yourself ever appraised land?

A Yes, but it has never been -- I have never held a position of an appraiser, but when we were particularly busy and short of help, I have made appraisals.

Q Do you recall an appraisal made by the Soldier Settlement Board appraisers in 1942 of Japanese lands? A: Yes.

Q What were your instructions for the appraisals made in 1942? A: I was called to Ottawa by Mr. Murchison, Director of the Soldiers Settlement, who advised me that our Minister, the Hon. Mr. Crerar, Minister of Mines and Natural Resources, had instructed him to have our appraisers make an appraisal of allthe agricultural lands held by people of the Japanese race in the protected area of British Columbia.

We went over our standard appraisal form and eliminated three questions therein. A general

discussion took place on the detail of the work as a whole.

THE COMMISSIONER: Now if the witness is referring to some form of a questionnaire, perhaps we better have it put in.

MR. HUNTER: I have no questionnaire, my lord. It was an appraisal form. Those appraisal forms have been filed in each case, my lord. He has statedthey differed somewhat from the standard form.

THE COMMISSIONER: Yes, I follow it.

A Mr. Murchison put through a long distance call to our office in Vancouver and asked that our appraisers be brought into Vancouver to be available by return air from Ottawa for a conference in connection with the task of carrying out this work.

MR. HUNTER: Q: I see. Were you given any other instructions by Mr. Murchison?

A Mr. Murchisom advised me that the authority for this work would be forthcoming by way of Order-in-Council. Later I received a copy of a draft, and finally P.C. 5523, dated June 29th, 1942, which was the authority for this work, was forwarded to me for our information, and we were instructed to have it published in the local newspapers.

MR. HUNTER: Q: Was there any other discussion with Mr. Murchison, or any other instructions from him?

A Yes. He instructed me to have our appraisers

attach a certificate to each appraisal indicating whether, in their opinion, these properties would be suitable for veterans settlement.

Q Now, did he give you the reason for attaching these certificates?

A He made it clear that the usual appraisal was wanted by our Minister, but he felt that if these properties should at any time be sold by the Government, we could save some time and money by having our appraisers give us a statement at the time that they were making the appraisal.

THE COMMISSIONER: Q: Apparently he assumed, then, that the Government was about to buy the properties, did he? A: No, I don't think so.

Q What does your last statement mean?

MR. HUNTER: Q: Would you amplify that, Mr. Barnet?

A He felt, so far as I know, that if we produced a statement at the same time, it could be used later on if the properties were ever purchased, so that we wouldn't have to go over all the properties. We would only have to check back on those that were deemed suitable.

Q That is, if they ever came on the market?

A If they ever came on the market.

Q You would then know which ones you were interested in? A: We would then know which ones we were interested in.

Q And I understand you to say that that was Murchison's idea? A: Yes.

Q And do you know whether that was the Minister's idea? A: No. As far as I know, that wasn't the Minister's idea.

Q Were you informed of the purpose of making t these appraisals? A: No.

Q Weren't you curious about this appraisal?

A No, I wasn't, Mr. Hunter. The people of the Japanese race had been ordered to be evacuated from the protected area, and I assumed that the Government wished to know the acreage that these people held, and its approximate value, in order to determine liability.

Q Whose liability? A: The Government's liability for the property.

THE COMMISSIONER: Q: Now, would you explain that? What possible liability had the Government?

A The people having been evacuated or about to be evacuated on the orders of the Government, in turn, I assumedx that the Government would have to take over the management of these properties, and that they would also want to know the value of them at the time that the people were being evacuated.

MR. HUNTER: Q: This was just an assumption of yours, was it? A: Yes.

Q Were you told that?

A No.

Q Now, when you were told to have these lands appraised by your appraisers, what did those instructions mean to you?—that you were to have

done? A: To determine the present day, or fair market value.

Q Is that what you usually try to ascertain when your Department is making appraisals, or do you have other things that you try to ascertain?

A Yes, that is the objective that we try to ascertain in our work, unless we are otherwise advised.

Q Now, when you were ordered to have attached to these appraisals a certificate as to its suitability for veterans, did that indicate to you that your Department was going to buy these properties? A: No, it didn't.

Q Why did it not indicate that?

A Because we were instructed to appraise the present day or fair market value and that the certificate was only for Departmental use.

Q Now, I have here a letter dated April 27th, 1942, from Mr. Murchison to you. Would you identify this letter, and explain to his Lordship what that letter is?

A This letter is a general confirmation of Mr. Murchison's verbal instructions to me, and is dated April 27th, 1942.

Q Did you receive any other instructions from Mr. Murchison, either oral or in writing?

A No.

Q That embodies the full instructions?

A This embodies the general full instructions.

MR. McMASTER: May I see it?

MR. HUNTER: Yes. I am going to read it, anyway.

THE COMMISSIONER: Has this letter not been produced to your friend in advance?

MR. McMASTER: No, my lord.

MR. HUNTER: I mentioned to my friend some considerable time ago I had this letter. I don't think this need go on the record, my lord. (Reading).

Q Now, I see here that you went over the standard form and changed it, Mr. Barnet? What were these changes? A: There were three questions on the standard form that were eliminated. One had to do with the tonnage per acre, which applies to general or mixed farming, and more particularly to prairie conditions.

The second question pertained to the type of family suitable which applied under Soldiers Settlement, and the third question dealt with the length of time that would expire before a family could be expected to get the property on a paying basis. This also had reference to Soldiers Settlement.

Q And the reason you deleted them was --?

A The reason we deleted them was that the instructions were to determine the present day or fair market value, and questions of this nature would have no relationship to the type of task that we were undertaking.

Q In other words, they were irrelevant?

A Yes.

Q Now it says that your objective should be the

completion of this work in approximately six months time or sooner, if possible. What have you to say to that?

A The director apparently thought the work could be done in about six weeks time, and of course, in order to speed it up, as quickly as possible, that was the reason for bringing our whole field appraisal staff in for conferences immediately.

Q Did you find it possible to complete the work in six weeks? A: No, by no means.

Q How long did it take?

A I think it was late August, or early September, before we were able to complete the work. There was a greater volume of them than we originally anticipated.

THE COMMISSIONER: When did you start on it?

A We started the first week in May, 1942.

THE COMMISSIONER: This might be a convenient time to adjourn, Mr. Hunter, or would you like to go on and complete your examination on the subject of that letter?

MR. HUNTER: I think possibly there are one or two short questions I will ask on this, and then file it, my lord.

THE COMMISSIONER: Yes, very well.

MR. HUNTER: Q: In this next to last paragraph, Mr. Barnet, it says, "A recommendation . . . . these properties". What has that reference to? It is rather obscure here.

A I think Mr. Murchison had in mind there that it

might be part of our responsibility to determine the equity that each owner had in this property, that is to say, whether he had clear title or otherwise.

Q Had you discussed this with Mr. Murchison, because this doesn't mean very much to me? It looks very mysterious here, and when he starts saying, "Certain actions under the War Measures Act", what do you think he is referring to there?

A I think he is also referring there to the Order-in-Council under which this work would be conducted.

Q You mean what subsequently was P.C. 5523?

A Yes.

Q That Order-in-Council was issued under the authority of the War Measures Act?

A Yes.

Q Did Mr. Murchison give you any reason why this work should be done in six weeks?

A No. I don't recall him giving any reason.

Q Did you tell him you thought it could be done in six weeks? A: My recollection is that I doubted very much that it could be carried out in six weeks time.

MR. HUNTER: My lord, I thought we would adjourn now, if it is satisfactory. I will file that letter as Exhibit 59.

(LETTER MARKED GENERAL EXHIBIT NO. 59).

THE COMMISSIONER: We will adjourn until 2:15 then.

(PROCEEDINGS ADJOURNED UNTIL 2:15 P.M.)

I hereby certify the foregoing to be a true and accurate report of the said proceedings.

J. P. Harrolin

Deputy Official Stenographer

2:15 P.M.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

IVAN TEMPLIN BARNET, resumed stand and testified further as follows:

DIRECT EXAMINATION CONTINUED BY MR. HUNTER:

THE COMMISSIONER: Yes, Mr. Hunter.

MR. HUNTER: Q: Mr. Barnet, you were telling us previous to the adjournment for lunch about the instructions you received from Mr. Murchison. Now, having received those instructions, how did you proceed to carry them out?

A On my return from Ottawa, I went into conference with our appraisers and advised them of the task that was before us, and instructed them to proceed with the appraisal of the lands of the people of the Japanese race.

Q Did you instruct them to ascertain the fair market value? A: No.

Q Why not? A: Because they understand that when an appraisal was ordered, it was to find the fair market value.

Q Did you at that time have any idea that these lands were to be purchased by the Veterans' Land Act? A: No, I didn't.

Q Did you tell your appraisers or imply to them in any way that these lands were being bought by the D.V.A.? A: No.

Q What other instructions did you give to your appraisers besides the instructions to go out and appraise these lands?

A I instructed them to attach to each appraisal a certificate, giving their opinion as to the suitability of each property for Departmental use.

Q Do you know whether they understood your instructions? A: I doubt if they fully understood that part of their instructions, for the reason that I had to further enlarge on it by way of correspondence, and although I was generally familiar with the terms of the Veterans' Land Act -- it was either before a committee or before Parliament at that time -- I doubt whether our field men fully grasped the idea of small holdings. It was a new phase of the Act, and entirely different from the old soldiers' Settlement Act which only provided for full time farming.

Q Now, were these certificates likely to lead these appraisers to believe their appraisals were being made for the purchase of these lands?

THE COMMISSIONER: It is very close to cross-examination is it not, Mr. Hunter?

MR. HUNTER: Well, I will withdraw the question if you like, my lord.

THE COMMISSIONER: If your friend has no objection to it --

MR. McMASTER: Yes, I do object, my lord. I think my friend is leading.

MR. HUNTER: Q: Did you explain to these appraisers whether or not they were to appraise from one specific point of view, or a number of points of view, or what was generally to be their ap-

praisal? A: No, I did not give specific instructions on that point. Our general instructions called for making an appraisal of all the agricultural lands of people of the Japanese race; and in 1942, practically the only value that these lands had was for farm purposes, in the great majority of cases.

Q Well, supposing the properties had a residential or a housing or a business value, what happened in that event? A: Much would depend on the appraiser. I can recall in some cases an appraiser would state that he had put on the so-called farm valuation what is recognized as a potential value for some other purpose, but it was not reflected always in his final figure.

I should state, however, that if he had put on a residemtial or a business value, then out-buildings, such as chicken houses and stables, that property would have little or no value, and any valuation placed on them would have had to have been seriously reduced.

Q That is because as a residence they would not have the utility that they would have on a farm?

A No.

Q I am sorry -- I am not trying to lead, but I am trying to get the answer. I presume that is what you mean by it, is it?

A Yes.

THE COMMISSIONER: I thought you said earlier you had instructed them to appraise as farms and you

took no other factors into consideration. Did I misunderstand you about that?

MR. HUNTER: I did not understand that.

THECOMMISSIONER: That is what I understood to be his answer. He was instructing them to appraise agricultural land, or land for use for agricultural purposes.

MR. HUNTER: Agricultural lands, I think he said.

THE WITNESS: The agricultural lands.

MR. HUNTER: Perhaps I could expand that.

THE COMMISSIONER: Yes, if you will.

MR. HUNTER: Q: How did you define agricultural lands, Mr. Barnet? A: Agricultural lands would be generally those situated in locations that had no special value such as for home use or business use, and were being used for farm purposes.

Q Do you recall how that phrase was defined in the Order-in-Council?

THE COMMISSIONER: Have you the Order-in-Council?

MR. HUNTER: I am afraid I have not it here, my lord. It is P.C. 5523.

THE WITNESS: I think I can recall that pretty well.

THE COMMISSIONER: I think it might be helpful to put it in rather than trust to the witness's recollection.

MR. HUNTER: They have all been filed, my lord, if you will remember, at the very first sitting.

THE COMMISSIONER: Well then, I will have them here then. 5523, is it?

MR. HUNTER: Yes, some time in May or June of '43.

THE WITNESS: '42.

MR. HUNTER: '42 -- I am sorry.

THE WITNESS: June 29.

THE COMMISSIONER: Yes, here it is-- it was filed as Exhibit 15. Would you like to see this?

MR. HUNTER: Thank you, my lord.

MR. HUNTER: Q: The definition of agricultural land as stated in this Order-in-Council is, "Agricultural land means land and any real or moveable property and any interest or equity therein, situated otherwise than in the boundaries of any incorporated city or town."

Is that the definition that you followed, Mr. Barnet? A: Yes.

Q Supposing you had this situation where a house and a small bit of land was situated outside of an incorporated city or town, would that have been appraised by you or not?

A We would have appraised it.

Q And how would it have been appraised-- as an agricultural holding, or by what method?

A It would have been appraised as an agricultural holding, unless the appraiser stated otherwise, in all probability.

THE COMMISSIONER: Well, had he any authority to state otherwise? A: He had no authority, but he would use his own judgment as to the best use of the property.

MR. HUNTER: Does your lordship wish me to go any further

with that?

THE COMMISSIONER: No.

MR. HUNTER: Q: Was there any other discussion at this meting with your Directors?

A Yes, we discussed ways and means of locating all these properties. The Directors wanted the work done as quickly as possible, and in order to assist our field men to the maximum in the field, so that they could redevote their whole time to the field work, we put two of our men in the New Westminster Land Registry office, with the approval of the Registrar, to get out maps and sketches and any other information that our appraisers wanted, in order that they could make sure that they were actually appraising the land described in the legal description.

Q Did you give your appraisers any instructions other these oral instructions?

A Yes, after they were working a few days and a few appraisals had come in, I reviewed them and then issued some memorandum and also wrote individual letters to each appraiser.

Q Have you copies of those letters?

A Yes, I have, there are/the letters, (producing same.)

Q Now, these copies, are thes the original carbon copies of the letters that you wrote?

A Yes, those are the original carbon copies.

Q And they are individual letters to the appraisers--dated May 13th. Are they all the 13th? No, I see there is one May 12th.

A Yes.

Q They are all either May 12th or May 13th, 1942.

A Yes.

THE COMMISSIONER: Q: Is there any difference between the several letters?

MR. HUNTER: They are all individual letters, my lord.

Q Now, these are memoranda to Field's supervisors, appraising Japanese property -- this is dated May 9th. Is that the original carbon copy?

A No, it isn't.

Q Where is the original carbon copy of that?

A They would be on our files.

Q Do you know whether these are two copies of the memorandum? A:I believe they are.

Q Are you sure or not?

A Yes, I am quite sure they are.

MR. McMASTER: Is there any reason why the originals should not be produced?

MR. HUNTER: No,I know of no reason.

Q Can you find the original copies of these, Mr. Barnet? A:Yes, I believe I can.

Q Will you do that, and in the meantime we will keep them out. These letters, my lord, are letters of which I told my friend and at that time he stated he would be down to see them,but I don't think he ever came down to look at them.

MR. McMASTER: My lord, I have no recollection of that, but if Mr. Hunter says that is so, I accept it, but I am sorry I did not get copyes of these.

MR. HUNTER: My lord, I read those to my learned friend on the phone -- at least, I read a passage, and my friend remarked jocularly, he asked whether the letter was written last week or back in 1942-- if that will recall it to his mind.

THE COMMISSIONER: Well, if counsel is not ready to proceed with cross-examination, he can do so to-morrow and he will have an opportunity to look at the documents in the meantime.

MR. HUNTER: I am proposing to file a copy of these letters, my lord.

THE COMMISSIONER: Well, if you will file the copies you have now and perhaps the witness can produce the originals, so that Mr. McMaster can peruse them.

MR. HUNTER: These are the original copies of these letters, my lord. It was the memoranda that had been re-copied-- some memoranda to the appraisers. I think these letters have some significance. I will read them, but I do not propose to read them into the record, but it gives the general picture.

THE COMMISSIONER: And you propose to mark them as one exhibit?

MR. HUNTER: Yes, my lord, unless my friend feels it would be wiser, for some reason, to have them marked separately.

THE COMMISSIONER: Well, in the meantime you can mark them as one exhibit.

THE SECRETARY: Exhibit No. 60.

(LETTERS MARKED GENERAL EXHIBIT NO. 60)

MR. HUNTER: The first letter is to Mr. T.G. McKay, (reading same.) There is a certain amount of prophetic vision in it.

THE COMMISSIONER: It is difficult to reconcile that letter with the statement of the witness that it was not anticipated that there was going to be any sale of these lands to the Government.

MR. HUNTER: I think as we read on we can see what is in the letters. Letter to R. W. Brown, (reading same. Letter to Mr.R.L. Ramsay, (reading same); letter to Mr. Dodding, (reading same); letter to B. C. Wormworth, (reading same); letter to H. L. Sinclair (reading same); letter to Mr. T. Godfrey, (reading same); letter to Mr. J.D. Patterson, (reading same)1 letter to Mr. L.B. Plumley, (reading same). Those are the letters, my lord. Exhibit 60, is it?

THE SECRETARY:Exhibit 60.

MR. HUNTER: Mr.Barnet will obtain the original carbon copies of the memoranda and produce them.

THE COMMISSIONER: Mr. Barnet, did you furnish your appraisers with copies of P.C. 5523?

A Yes, they were sent out as soon as they were received.

Q To each of the appraisers?

A Yes, as far as I can recall, and they were also advertised in the paper.

MR. HUNTER: You will notice -- in fact, I think we have all noticed, Mr.Barnet, in the appraisal forms, you, yourself, made a recommendation. Why was

that? A: Our appraisal forms have always had a place in them for a district superintendent to express his opininn as to the value. I think you will appreciate the appraiser is working in different parts of the country, and appraisals coming in in that way, the district superintendent probably gets a better over-all picture of the problem and may be in a better position to express his own opinion in order to keep values more or less on an even keel in relation to one another.

Q But when a subsequent purchase was made, it was the appraiser's figure that was taken rather than yours, was it not?

A Yes, that was so.

Q Why was that? A: The valuations as a whole by the appraisers were a little more generous than my opinion, or value expressed. In view of the fact the District superintendent's valuation is only an opinion, and the fact that the appraisers made the actual appraisal and were over the property and had closely examined the land and the buildings and the relation of the property to surrounding farms, etc., it was thought that they had placed a fair market value on the individual properties and that their valuation should be used for the basis of a purchase price rather than the district superintendent's.

Q Well, why, Mr.Barnet, were your figures not so generous as the appraisers'?

A In appraising land, it is only natural that an appraiser will bring out a valuation in most cases as to an uneven property -- in view of the fact many of these properties contained so many acres and a fraction -- a fraction of the acres uncleared as against the total acreage of cleared land, and so on -- well, perhaps I could best illustrate the point I am trying to make by saying, for instance, an appraisal came out at $1836.90. In view of that fact, that land is usually bought and sold on a basis of a few hundred dollars -- I would express an opinion on a property of that kind likely at $1800.00.

Another reason is the fact these properties contained often a very large percentage of logged over, undeveloped land in relation to the percentage of the property that was cleared.

It is a common fault of people to underestimate the cost of clearing, and many an experienced farmer will tell you that you could buy clear land often for a lot less than what it cost to clear logged off land. Nevertheless, logged off land is bearing taxation, from a practical view in the operation of a farm this means that the cleared land has to bear the burden of its own taxation, plus that on the uncleared land, and therefore I don't put on very high values on cleared land.

Thirdly, these properties as a whole were developed for small fruits and poultry farming,

or usually some combination of these. Very, very few were developed for mixed farming or dairy farming.

I recognized that deterioration would be heavy on this class of property the moment the owners were gone.

Q Why would deterioration start as soon as the owners left? There would be tenants there, wouldn't there? A: The Government had already ordered the evacuation of these people as a race, and I recognized, taking a whole race out of people out of a protected area, was bound to have some effect on land values. For instance, a Japanese follows the habit largely of purchasing logged off land and therefore that class of buyer is taken out of the picture.

We were at war with Japan and the local situation, as far as war was concerned, was far from bright on this coast in the spring of 1942. And furthermore, I understand arrangements had been made for the evacuation of white people, or the whole population, if need be, off Vancouver Island.

Hundreds of young men and women mentally fit and physically fit in the armed forces were enlisting, leaving their parents short of help on the farms.

In addition to that, on account of the tremendous demand for workers in the shipyards -- Boeing's air plant and other war industries here, many

small holders particularly were giving up their own farming operations and going into war industry, because they could make more money than they could farming.

Prices for farm commodities that were being produced on these properties had been low, and this had forced many white operators out of production. I took these factors all into consideration, and I figured they were all factors that had a bearing at that time on values.

Q Were there any other factors that caused you to scrutinize these very carefully?

A Yes. The Japanese, as a whole, usually purchased logged off land and they developed it entirely with their own labour, and erected their own buildings with their own labour. It was not a common practice for them to buy developed properties from white owners. The architectural designs of a lot of these houses no doubt met their requirements quite well, but realizing that these properties at some future date were to be on the market by the Government, the market would be among white population only, and that white people would likely find fault not only with the design of these buildings, but also with the grade and workmanship that was found in many of them.

For instance, as a race the Japanese used a different method of bathing in that country than the average young people, inasmuch as they built a separate bath house. For this reason, it was

seldom that we found whole plumbing as we understand it, in these homes, even in the newer ones that hadbeen more recently constructed, prior to 1942.

For some reason or other, the Japanese do not seem to follow the practice of painting their buildings to any great extent, either outside or inside, and the result is the workmanship and material are not of the best, and when paint has not been used the depreciation on the building is more rapid than is generally found where buildings have been built by the white people.

These were all factors that I believed had to be given consideration, and we recognized that to put these buildings in good condition, where they would be worth repairing, that considerable expense would be involved.

Many of the older houses were deteriorated to the point it was questionable whether they had anything more than a salvage value.

Q You recall, Mr. Barnet, I imagine, this Veterans' Land Act purchased from the Custodian?

A Yes, I do.

Q What was the contract that you made with the Custodian? A: I think I should explain that: Under the terms of the Veterans' Land Act, regional advisory committes have to be set up to advise the District Superintendent; and it is part of the duties of a Regional Advisory Committee to examine every appraisal

that is made, and if they see fit, or believe it is necessary to go out and look at property in order to satisfy themselves that the appraisers are putting on what they believe are correct values --

THE COMMISSIONER: Have we not had all this before, Mr. Hunter? Is there anything new that this witness can give me? I do not want to stop him if there is anything new, but I do not want him to go all over it again.

MR. HUNTER: I do not recall ever having had any information as to the D.V.A. Advisory Committee. It was the Custodian's Advisory Committee we had before.

THE COMMISSIONER: No, that is right. I did not understand the witness to be referring to a committee-- a committee that did function. You might clarify that then, will you?

A A committee for the purpose of the Veterans' Land Act was set up in New Westminster, consisting of Mr. Thomas Godfrey, who was Chairman, and E. E. Cairncross and Mr. J. McLellan. When the Custodian indicated that they were prepared to sell these properties, this information was communicated to our Regional Advisory Committee, and in the end they met the Custodian's Advisory Committee and made an offer to purchase the 769 parcels of land for $750.00.

The Custodian's Committee made it clear they were only prepared to sell these properties to us

en bloc. Our committee made a further offer of $800,000, and again the Custodian's Committee declined this offer. They indicated they thought the properties were worth about $1,000,000, but would consider recommending a cash offer of $900,000.00. My Regional Advisory Committee asked 24 hours to give the matter further consideration, and they later recommended to me that we purchase 769 properties for a price not to exceed $850,000, it being understood that we would have to take over the tenants on these properties; and therefore, the Custodian avoided the necessity of having to give vacant possession of these holdings, which was quite a factor.

In the end, I forwarded the offer of $850,000 on 769 parcels of land to the Directors of the Veterans' Land Act, and I believe he made a formal offer to the Honourable Mr. McLarty, Secretary of State, for $850,000 for 769 parcels of land, which was formally accepted by the Honourable Mr. McLarty.

Q Did you obtain title to all those 769 pardels?

A No, for one reason or another the Custodian was only able to -- for one reason or another, the Custodian had to withdraw 69 parcels. Later we made a further offer on 41 parcels of land, and in the end we acquired 741 parcels of land for a total figure of $836,256.00.

Q Now, did you regard this deal with the Custodian as a good purchase?

A I did not regard it as a particularly good purchase.

Q Why not? A: In view of the fact that we had to take the lands en bloc. I realized that we would likely have some properties that would not interest veterans at all.

I also realized that at that time no one knew how long the war would go on, and that we had an administration problem of quite a magnitude to handle these properties. Taxation was quite a big factor, and with war industries running at a high level, with a great demand for labour, we recognized that we would have a problem on our hands keeping these properties rented, and to reduce deterioration to a minimum.

Q You consider that your appraisers did give the fair market value in their appraisals?

A Generally speaking, yes.

Q Why generally speaking?

A These properties in 1942 were on the whole being used for farm purposes, and there was enough land in most areas that had already been subdivided to meet any residential or business needs, but there would be probably some properties that might have had some residential or business value that was not reflected in some of the appraisals.

Q I see. Well, did you distinguish between agricultural and residential value, and business value?

A I think that there is in some cases a difference.

Q What would that difference be?

A That would be reflected, possibly, in a somewhat higher valuation, but at the same time I should point out that some of these properties had rather poor soil and were probably not well located, but had a little home on it. If our appraisers had kept to strict agricultural value, then their valuation would have been further reduced, but as they were attempting to bring in a fair market value, they recognized a home value on this type of property and put on a valuation accordingly.

Q Now, Mr. Barnet, some times it has been inferred that this was a special deal between two Government departments, with no proper consideration having been given to the Japanese owner as to whether they did or did not obtain fair market value. What comment have you to make on that?

A Our appraisers were instructed to appraise these lands and bring in a fair market value, and I believe they did so.

Q A While ago, Mr. Barnet, you said you did not think all of the properties would sell. Has that actually happened?

MR. McMASTER: I do not remember that statement, my lord.

THE COMMISSIONER: Well, there was something substantially to that effect.

A Would you mind repeating your question?

MR. HUNTER: Q: You said something to the effect a while ago one of the factors you took into consideration was that some of these properties would not sell. What has actually turned out to be the

case? A: That has actually turned out to be the case. We still have quite a volume of these properties, for which there is little or no demand now.better than there was before.

THE COMMISSIONER: Could you express that statement in terms of the percentage of the whole?

A I doubt if I could, my lord, without going through our records.

Q Well,perhaps you might do so tomorrow.

A Well, I think there is in the neighbourhood of from 10 to 15% of the uncleared lands still on our hands.

THE COMMISSIONER: Perhaps you might check your records and be able to tell me more accurately tomorrow. Have you still some little time to go, Mr. Hunter, with your examination-in-chief?

MR.HUNTER: No, my lord, I am practically finished.

THE COMMISSIONER: Well,go on and finish and then we shall have recess for a short time.

MR. HUNTER: Perhaps if we recess now, I might finish sooner. I have a statement showing the number of pieces still unsold.

THE COMMISSIONER: Well, just whatever would suit your convenience.

MR.HUNTER: I could probably find it in a moment.

THE COMMISSIONER: Perhaps you might find it more readily by yourself, than having a lot of us waiting on you.

(PROCEEDINGS RESUMED AFTER SHORT RECESS)

I. T. BARNET, resumed stand and testified further as follows:

DIRECT EXAMINATION CONTINUED BY MR. HUNTER:

Q Mr. Barnet, I am showing you a copy of a statement of unsold lands which were enclosed to me in a letter from you. Do you know of your own personal knowledge whether those lands remained unsold?

A This statement was made out, I think, as at September 15.

THE COMMISSIONER: Of this year?

A Of this year, and were unsold at that time.

MR. HUNTER: Q: Do you know whether any of them have been sold since?

A Yes, there has been an occasional property sold since.

Q I see. At that time, my lord, it shows one property in the coastal area, two in Coquitlam; one, in Delta; two in Dewdney; there are 27 in Maple Ridge; one in Pitt Meadows; three in Surrey; and another in Delta; one in Langley. Oh, there are three more in Maple Ridge here, and two more -- that is a total of 32 in Maple Ridge and one in Surrey.

THE COMMISSIONER: The total being--?

MR. HUNTER: 48, my lord.

THE COMMISSIONER: As of September, 1948, there were 48 out of the 741 parcels unsold, is that right?

A Yes.

MR. HUNTER: Q: Now, Mr. Barnet, these properties are listed under the names of the Japanese owners.

Are they the whole property of that Japanese?

A Yes.

Q Are there any other properties which you have divided where some lands remain unsold?

A Yes, some of the lands that were subdivided, we still have a considerable number of lots that remained unsold.

Q Would you know how many?

A No, I could not tell you just off the record.

Q Could you get that information and have it tomorrow? A: Yes, I could.

MR. HUNTER: I will file this as Exhibit 61.

(MEMORANDUM MARKED GENERAL EXHIBIT NO. 61)

THE COMMISSIONER: By the way, do these parcels include certain parcels which were held out because they were Japanese veterans?

MR. HUNTER : Yes.

THE WITNESS: That is Japanese soldiers -- settlers.

THE COMMISSIONER: Yes.

THE WITNESS: Yes.

MR. HUNTER: And it would still remain 45 that were available for sale. How many properties altogether did your appraisers appraise, Mr. Barnet?

A Something over 1,000 properties.

Q And you did on 769. Why that number rather than 1,000? A: In carrying out our appraisal order, I considered it was our responsibility to report on every property that we found -- that we could reasonably prove was owned by the Japanese. I should clarify that to

this extent, that as these reports came in from the taxing assessment authorities, I found that large acreages that were obviously timber purchases, and that type of holdings and so on, we did not think it was our responsibility to appraise and did not make an appraisal on it. However, in our appraisal work we found that some of these properties consisted of land -- well, on the land was a church or a community hall, or some co-operative association buildings, or hospitals -- such as a fisherman's home down here at Steveston. Now, it was clear that we could not -- it was clear that that was not intended to be agricultural lands, but nevertheless we made an appraisal on most of those, or rather the appraiser stated that it was a church or something of that nature; and if my memory serves me correctly, they gave me a memorandum to that effect.

But in answering your question there, Mr. Hunter, why we only bid on about 769 parcels, here in the Fraser Valley we found a lot of parcels of a smaller acreage: That is, down into a fraction of an acre of city lots, such as we found in the Townsite of Steveston. In ~~3~~ Burnaby we found business properties. All of that type of property was of no use to us under the Veterans' Land Act, otherwise, generally speaking, it was minimum acreage that we were supposed to settle on -- one acre, and there were also other

types of properties that had values away in excess of what could be handled by any settler under the Veterans' Land Act, and buildings were built in such a way on the property it was not possible to subdivide it, and the Custodian agreed to eliminate those and not tarm them as part of the block purchase.

Q What about the properties of better type homes? Did you bid on those?

A Not on them all. There were some of those particularly connected with large greenhouses, where the investment was so big that we could not possibly touch it, and they were not the type that we believed the veterans would be interested in at all.

MR. HUNTER: That is all, my lord.

THE COMMISSIONER: Just before you open your cross-examination, Mr. McMaster, there is a question I asked you this morning and I have had it transcribed in the meantime. I would like you to read it and tell me if there is anything further you desire to add to the answer you gave to my question. I hand you the extract here.

(Witness reads extract.)

Q Have you had an opportunity to read it through, Mr. Barnet? I do not want your answer for just one moment - if you will kindly hand it back to me and I will direct your mind particularly to the question I wish an explanation of. It is the question that reads: "Now, did he give you the reason

for attaching these certificates? A: He made it clear that the usual appraisal was wanted by the Minister, but he felt that these properties should at no time be sold by the Government; we could save some time and money by having our appraisers give us a statement at the time that they were making the appraisal."

Now, I call your attention to the fact -- and that it was you who introduced the question of sale by the Government, but up to this time the Government had never bought it. Do you follow me? You were injecting into your answer that the Government might sell it. Now, at the time that these certificates were furnished, the Japanese still had title?

A Yes.

Q The Government did not own it?

A No.

Q And you referred to the Government selling it. Now, have you any further explanation that you desire to make in regard to the answer you just gave? A: So far as I am aware, Mr. Murchison had no knowledge that the Government intended to eventually sell these lands.

Q Did Mr. Murchison have knowledge that the Government intended to buy the lands? They have to buy them before they can sell them.

A No, not to my knowledge.

Q Then why should you make the statement, in answer

to Government counsel's question: "If these properties should at any time be sold by the Government",? I infer from that that you were aware that the Government proposed to buy them before you made these appraisals. Now, am I wrong in that? A: Yes, I would say that it is not a correct assumption to say that the Government intended to buy them, or again, to sell them.

THE COMMISSIONER: Counsel may desire to pursue this subject further.

MR. HUNTER: Q: Mr. Barnet, when you referred to the Government there, were you possibly confusing that with the Custodian?

MR. McMASTER: I am afraid my friend's question is most leading.

MR. HUNTER: Well, we will change the quetion.

THE COMMISSIONER: Would you like to have this before you, Mr. Hunter?

MR. HUNTER: Q: Do you consider the Custodian a Government Department?

A Yes, I have always considered them a Government Department.

Q Have you any reason for that?

A They come under the Secretary of State, and that.

Q Well, why do you feel they come under the Secretary of State? A: Do you mind repeating your question?

Q Why do you feel the Custodian's Department comes under the Secretary of State-- the Custodian's

office? A: I have always been under the impression that that was a Government Department, of which they were a part.

Q I see. Do you know why you were under that impression? A: No, I cannot say that I do.

THE COMMISSIONER: Well now, apparently the witness is not able to furnish any further explanation than he has already given. Yes, Mr. McMaster?

MR. McMASTER: My lord, in view of the letters and memoranda which my learned friend has filed, I would prefer to leave the cross-examination until the morning andI think I can probably shorten my cross-examination.

THE COMMISSIONER: Well, we are close to the end of a normal day and on your assurance that it will shorten the cross-examination, I will adjourn now.

MR. McMASTER: I would like to have the letters that were filed, overnight, and perhaps my learned friend will let me have a copy of the memorandum that he is going to file in the morning.

MR. HUNTER: Will you loan me your copy, Mr. Barnet?

MR. McMASTER: And I was wondering if my friend would be able to produce from Mr. Barnet several samples of the certificates which is referred to in Mr. Murchison's letter.

THE COMMISSIONER: Yes, I think it might be helpful if some of those certificates were furnished, so we can see what they are.

MR. HUNTER: Yes. Would you be able to do that?

THE WITNESS: Yes.

MR. McMASTER: I wonder if it would be convenient for him to bring Form C.43, which was one of the forms that used to be used by the --

MR. HUNTER: I have compared these forms very carefully and except that these three questions are deleted, it is exactly a copy.

THE COMMISSIONER: Well, if your friend wants it , I think you might get it for him.

MR. HUNTER: Q: Will you get a copy of your original appraisal form and bring it up?

A Yes.

MR. McMASTER: And I would like to have Exhibit 61, which was filed.

THE COMMISSIONER: Very well. Mr. Secretary, will you see that that is furnished him. We will adjourn now, then, until 10 o'clock in the morning.

(PROCEEDINGS ADJOURNED UNTIL NOVEMBER 30, 1948, AT 10:00 A.M.)

I hereby certify the foregoing to be a true and accurate report of the said proceedings.

E. Bugh

Deputy Official Stenographer

IN THE SUPREME COURT OF BRITISH COLUMBIA

(Before the Examiner)

GENERAL EVIDENCE

THE JAPANESE PROPERTY CLAIMS COMMISSION.

B E F O R E

(THE HONOURABLE MR. JUSTICE H. I. BIRD, COMMISSIONER).

Vancouver, B.C.,

November 30th, 1948.

PROCEEDINGS AT HEARING

(Pages 233 - 315)

Barnett chief contd 233-238

Cross. 238-315

The Commissioner.

Vancouver, B. C.,
November 30th, 1948. 10:00 A.M.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

I. T. BARNET, resumed the stand;

THE COMMISSIONER: Have you something further, Mr. Hunter?

MR. HUNTER: Just to put in these various things that were to be put in by the witness, my lord.

THE COMMISSIONER: Yes.

MR. HUNTER: Q: Mr. Barnet, I show you a sheet called "Statement Japanese Lands", dated November 27th, 1948. Will you explain to the Commissioner what that statement represents?

A This is a statement compiled by our New Westminster Regional Office every week, and this one is dated the 27th November, 1948. It shows a total of # 689 parcels, and then 175 of those were subdivided into 531 units. Of the units subdivided, there remain unsold 43 units, and 10 are shown as "Associated". That actually means the property is not sold but that some veteran has indicated that he would like to buy it. He may not yet have funds to buy it or there may be a tenant on it that we can't get off right away, or some problem of that nature. In the properties that were not subdivided, there are still thirty-four unsold, and there are another nineteen that some name is associated with.

Q There would be actually 53 unsold of the original parcels on nineteen of which some veteran has indi-

cated interest?

A Yes.

Q And there would be fifty-three of the subdivided ones on which ten veterans have indicated some interest? A: Yes.

THE COMMISSIONER: Then the figures I got yesterday are not quite correct. The total I have is forty-eight out of 781 remaining unsold.

MR. HUNTER: That was as at the 15th September. It may be that some of those parcels hadn't been subdivided at that time. I don't know the reason for it.

THE WITNESS: That would include those three soldier settlers.

MR. HUNTER: Q: These figures again would include those three soldier settlers.

THE COMMISSIONER: At November 27th, 1948, there are roughly 100 unsold at the moment.

MR. HUNTER: Yes, my lord. Fifty-three of the original which include the three soldier settlers, so there would be fifty, and fifty-three of the other type, but some of those have been spoken for although no contracts made.

Q Is that correct?

A That is correct.

(STATEMENT JAPANESE LANDS MARKED EXHIBIT GENERAL 62).

MR. HUNTER: Q: I show you a form called S.S. Form No. 43, sheets 1 and 2, headed "Farm Appraisal Report". What is that?

A This was our standard farm appraisal report form that we used in later years in Soldier Settlements.

THE COMMISSIONER: Q: Is that the form that was in use prior to the change?

A Yes.

MR. HUNTER: Q: Is this the only form you had prior to the change, Mr. Barnet?

A These forms, I believe, as supplies were used up, when reprint was made there were some changes in the form from time to time.

MR. HUNTER: This form, my lord, aside from the three changes mentioned, there is also the change at the top. Instead of saying, "Owner's name", it says, "Settler's name".

THE COMMISSIONER: Which were the three questions?

MR. HUNTER: The three which were eliminated, the first says, "What is the average yield per acre of this farm?" I think yesterday it was referred to as tonnage. They are on page 2.

THE COMMISSIONER: Will you indicate by a cross opposite each those that are eliminated?

MR. HUNTER: The second is, "State type of family recommended for this property."

And the next one says, "How soon can a settler be reasonably expected to begin paying full annual installments?"

Those were eliminated. Then on page 4 it has a sort of a graphtype of thing to make the sketch of the land on.

THE COMMISSIONER: Yes, I see.

MR. HUNTER: And at the bottom there are certificates. Perhaps Mr. Barnet could explain what those certificates mean. They speak as if the land were being graded.

A The first is the certificate from the inspector which reads, "Having regard to the nature . . . . . should be set." Then on the other side is, "Having considered the appraisal . . . minimum sale price."

Q What were these grades, Mr. Barnet?

A As far as I recall it was in property that was owned by the Soldier Settlement and would come back probably on our hands and be for sale, and we would category the properties. Sometimes if we didn't think the property was high enough quality, we might not allow another settler to go on; sell it probably on the open market.

Q You talk rather vaguely about that, Mr. Barnet. Is your memory not too sound on that?

A To be quite frank when I went back to the office last night to try to get a blank sheet of these forms, they told me they were all out of print, and eventually last night, rummaging around my own home, I found one of these, and it is a long time since I have seen one with a grade in it.

Q So that are you positive what that grading meant? A: Well, I think Iam correct in that.

THE COMMISSIONER: Q: Dealing with Exhibit 62, there

are some of the headings I don't understand: "Withdran S/D".

MR. HUNTER: That is the 175 properties that had been subdivided.

THE COMMISSIONER: "S/D" is"Sub-divided"then?

A Yes.

MR. HUNTER: Yes, that is they were withdrawn from the properties that were sold intact.

THE COMMISSIONER: What is an Associated Veteran?

MR. HUNTER: That is the chap who has indicated an interest in the property but has not yet paid anything or made a contract. As far as I can judge, his name has tentatively been set opposite that property.

THE COMMISSIONER: That is clear.

(FORM S.S. 43 MARKED EXHIBIT GENERAL 63).

MR. HUNTER: My learned friend asked that some of these certificates as to suitability for veterans be produced, my lord, and samples have been produced and shown to my learned friend. I don't think we need put this in the transcript, but I can read the tenor of them. They are very brief. (Reading certificates later marked Exhibit 64). That is the type of report.

THE COMMISSIONER: Q: What it comes down to, Mr. Barnet, if I have understood those certificates, is that the various appraisers were called upon to express an opinion as to whether or not the property was suitable for occupation by veterans. Is that the case?

A That is correct.

(7 CERTIFICATES MARKED EXHIBIT GENERAL 64).

MR. HUNTER: Q: Following his Lordship's question, Mr. Barnet, when they were asked to express an opinion as to its suitability for veterans, was that under the Soldiers Settlement Act or under the Veterans Land Act?

A That would be under the Veterans Land Act.

MR. HUNTER: There are a number of memoranda that were referred to yesterday, my lord. The original carbon copies are now available. I don't know that I need read them all. They deal with matters of appraisal and information that should be shown and some of them deal with vacations and things like that. My learned friend has had them and I don't know whether he wishes them read.

THE COMMISSIONER: Are they going to be at all helpful here?

MR. HUNTER: My learned friend suggests that the first two are the only relevant ones. Perhaps I could quickly read them. The first is dated May 9th, 1942 (reading); and the second one is May 15, 1942 (reading).

(MEMORANDA RE APPRAISALS OF JAPANESE PROPERTIES MARKED EXHIBIT GENERAL 65).

MR. HUNTER: That is all, my lord.

CROSS-EXAMINATION BY MR. McMASTER:

Q Mr. Barnet, before proceeding with my general cross-examination, there are a few things I would

like you to clarify from the evidence which you gave yesterday and have given this morning. First of all, I would like to deal with the form 43 which you previously used in the Soldier Settlement Board, Exhibit 63. I wonder if you would be good enough to explain again why these three questions were left off the farm appraisal reports which were used in appraisingthe Japanese properties?

A They were not applicable to an appraisal of this nature, and those questions really applied, as I said this morning here, to when using that form on check appraising properties or that had come back to give the appraiser an opportunity to state how long in his opinion before a family could make the property self-supporting and make their payments, and the type of family that, in his opinion, was best suited to go on the property, and the first question there dealt with yields or tonnage of the crops, chiefly hay and grain.

Q And you andMr. Murchison in this conference you had at Ottawa decided to eliminate this question with regard to yield or tonnage, is that right? A: Yes.

Q Was the reason you decided to eliminate it because you considered it irrelevant in determining fair market value?

A I don't think we were thinking so much about that angle as the fact that we would be dealing

with a small holding; that is small properties and acreage developed more along the lines of the small fruit grower.

Q So when you adapted these forms for these appraisals, you had in mind the ultimate ~~lease~~ use of the land by returned veterans?

A No.

Q Would you just explain your last question then, Mr. Barnet?

A Your question again?

Q So that when you adapted these forms for these appraisals, you had in mind the use of the lands by returned veterans under the V.L.A., the new form? A: The new form?

Q Yes. A: No.

Q Then would you explain again why you eliminated -- or will you just answer the question I asked you before: What was the reason you decided to eliminate the yield per acre from the farm?

A For the reason that, as I said before, these general run of farms we had been handling, what we call full-time farming, mixed farming, dealt with yields of hay and grain, whereas from our general knowledge of these Japanese farms that question would not apply.

Q Are you suggesting that the questions as to the yield of strawberries or raspberries has got nothing to do with the value of a small fruit farm? A: Much would

depend on whose hands it was in.

Q Will you answer the question? Has the yield of strawberries or raspberries in a small fruit farm got anything to do with the value of the fruit farm? A: Yes and no.

Q I would like a direct answer, Mr. Barnet, please. A: It would have an effect if prices are good; there would be a profit. Other times, when prices are extremely low, it wouldn't make very much difference.

Q So that you don't think it would affect the value if you were selling it on the market whether you had good production or a small production?

A At times they would pay very little extra for good production.

Q And at what times would those be?

A If the price of small fruits was low.

Q And if the price was good, it would add to the value? A: Yes.

THE COMMISSIONER: What difference does it make whether you are dealing with small fruits or with other field crops? Surely the production from the land, whatever the nature of the production is, affects the value of that land. If it is a highly productive piece of land, it must be worth more money than a barren piece of land, must it not?

A Yes.

THE COMMISSIONER: I find it very difficult to understand your answers, Mr. Barnet.

MR. McMASTER: Q: Is it possible that you and Mr. Murchison had in mind when you eliminated that question from the appraisal form, Mr. Barnet, that if you were going to be dealing with these lands in one to three acre sections under the V.L.A., that the productivity of the land was not as important a factor as if you were dealing with them as farm lands?

A No, it wouldn't be as big a factor.

Q And you and Mr. Murchison had that in mind when you re-drafted this form, isn't that right?

A No, I don't think so.

Q I notice on the back of Exhibit 63, that is the farm appraisal report form, you used before you valued the Japanese properties, that underneath the diagram it states, "Having regard to the nature and history of this farm, I consider that it should be graded blank and that a minimum sale price of blank dollars should be set." What was the purpose in setting the minimum sale price? A: The minimum sale price would indicate the price at which the appraiser thought the property would sell in the very near future.

Q Sell to whom? A: Generally speaking, on the open market.

Q Not this other feature?

A Not necessarily.

Q So that these forms you produced were used primarily to deal with properties you wanted to

sell to, shall we say, civilians?

A Yes, quite often.

Q And the appraisals made in those forms were made from the definite standpoint of the seller?

A Yes, it would be from that standpoint.

Q That also is another change that was made in these forms when you adapted them for use with the Japanese that you haven't mentioned so far, is that right?

A Yes.

Q And what was it that the inspector was required to state on the forms that you did adopt?

A I would have to see that.

Q I have one here. "I certify that the above report is based on a personal examination of the whole farm made" on such and such a date. And then in the course of that report he stated his opinion of the total value of the farm?

A Yes.

Q Presumably that was on the other report as well. Yes. And you eliminated from the form then the opinions to suggest the appraisals were being made -- A: We eliminated that portion where he would state the minimum value that he believed the farm might sell for in the very near future.

THE COMMISSIONER: Q: Referring to an answer you made a few moments ago regarding a prospective sale to civilians, are you suggesting that these two branches of government, the Soldier

Settlement Board and the Veterans Land Act, were concerning themselves with the acquisition of properties which they, in turn, proposed to sell to civilians and not to veterans?

A These properties we were appraising?

Q Yes. A: We had no idea who the properties would be sold to, if sold.

MR. HUNTER: I don't think he understands your question, my lord.

THE COMMISSIONER: Would you read the question, Mr. Reporter?

(Question read).

THE COMMISSIONER: Q: Here are two branches of Government primarily concerned with the rehabilitation of veterans and the settling of them on the land. Now would it not have been a complete departure from the normal functions of those two Departments to be concerning themselves in a general colonization scheme which would settle civilians on the land rather than veterans?

A No, we wouldn't normally be settling civilians.

Q Is it not fair to say that everything you told us here, particularly the certificates that were required from the appraisers, points to the acquisition of this property for the settlement of veterans and for no other purpose?

A The purpose of the certificate, my lord, --

Q Just deal with the question I am putting to you. Does not the whole policy as outlined by yourself indicate the interest of these Departments in the settlement of veterans on

lands to be acquired from the Japanese?

A The certificate itself would indicate to us for Departmental use the properties that our appraisers t thought would be suitable for veteran settlement.

Q What it comes down to is this. You are saying that no decision had been made with regard to the acquisition of these properties at the time that the appraisals weremade. The appraisals were made for the purpose of determining whether or not they should be acquired for veterans' settlement, is that it?

A The appraisals were to determine the present day or fair market value.

Q For what purpose? A: For whatever purpose the Government decided to use them for.

THE COMMISSIONER: All right. I think we had better leave it there.

MR. McMASTER: Q: Referring to those certificates which you have filed this morning, Mr. Barnet, how did you select those samples?

A We just drew some of our files and tried to get what looked like fairly representative certificates.

Q It seemed to me in hearing my learned friend read them that in six out of the seven cases the properties were stated by yourself to be not suitable for Veterans Land Act purposes? Is that representative of the whole transaction?

A Six out of seven?

Q I think that is it, yes.

A No, they wouldn't.

Q Then they don't represent a fair sampling of the certificates that you have?

A Well, they represent the type of certificate.

Q That is all. One of them would have done as well then? A: Yes.

Q Now from the information that was on those certificates, I take it that your appraisers, apparently, were thinking in terms of the use of this land under the old Soldier Settlement Board provisions, whereas you were thinking in terms of the new Veterans Land Act?

A No, I don't think so. They were still using the old phraseology of the Soldier Settlement.

Q And at the time those certificates were made, the present Veterans Land Act had not been passed? A: No.

Q And would these appraisers be familiar with the provisions of the Veterans Land Act?

A Just in a general way according to the general explanation that I was able to give them.

Q I put it to you that that was a specific explanation. Is that not correct?

A The Act, as yet, had not been passed and, therefore, I would not know the form in which it would be finally passed.

Q But Mr. Murchison, in your conference at Ottawa, had given you considerable details with regard to the proposed provisions of that Act?

A Yes, the general draft of it.

Q And you conveyed that information to these appraisers? A: Yes.

Q And, in fact, in Mr. Murchison's instructions in the memorandum of April 27th, 1942, which has been filed as Exhibit 59, he was quite specific as to what was to be included in these certificates and as to the provisions of the Veterans Land Act which were to be taken into consideration. Is that not correct?

A Yes, he asked me to have them state their opinion as to the suitability or otherwise.

Q And he referred further to what the provisions of the Veterans Land Act were. I refer you to the paragraph at the foot of the first page: "As decided this afternoon . . . . is concerned." You recall you discussed that and that is a summary of the discussion you had?

A Yes.

Q Did you, pursuant to those instructions, discuss in detail the requirements that Mr. Murchison sets out in that letter, Exhibit 59?

MR. HUNTER: Discuss with whom?

MR. McMASTER: Q: With the inspectors who were to make these appraisals.

A Yes, we discussed particularly the small holding part of the Act.

THE COMMISSIONER: So far as I am concerned, Mr. McMaster, you need not pursue this phase of it any further. I think it is quite obvious from everything Mr. Barnet has said that these appraisals were made primarily with the purpose

of permitting the furnishing of enough information to determine whether these lands should be acquired for veteran's settlement or not. Mr. Barnet does not appear to have realized that is what the purpose was, but it stands out in everything that comes from Mr. Murchison.

MR. McMASTER: Q: Referring again to Exhibit 59, I noticed in the second paragraph that, "Mr. Barnet had telephoned Vancouver . . . . . brought together." Would you mind telling me where Mr. Patterson was being brought from?

A Victoria.

Q And what was his position in Victoria?

A He was supervisor there.

Q And how long had he been there?

A I would think about 7 or 8 years.

Q And do you know where he was before that?

A Yes, he was located in the Fraser Valley.

Q Doing what? A: As field supervisor.

Q And what are the duties of a field supervisor?

A The field supervisor's duties were chiefly connected with administration of properties owned by the Soldier Settlement, and we were also doing work for other Departments such as War Veterans Allowance.

Q And Mr. Godfrey, where was he to be brought in from? A: New Westminster.

Q And what was Mr. Godfrey doing at New Westminster?

A He was our field supervisor there.

Q For the Fraser Valley area?

A Yes.

Q And would his duties have been similar to those you have just described as the duties of a field supervisor?

A Yes.

Q Mr. Ramsay, where did he come from?

THE COMMISSIONER: Does it make any difference where these men came from?

MR. McMASTER: Yes, I think it does, my lord.

Q Before going on to Mr. Ramsay, how long had Mr. Godfrey been in this position of supervisor at New Westminster?

A I think in the neighbourhood of 7 or 8 years.

Q At that time?

A Yes.

Q And where was he before that?

A He was in Victoria before that.

Q Now, Mr. Ramsay? A: Mr. Ramsay was at Chilliwack.

Q And what was his position there?

A Field supervisor.

MR. HUNTER: These appraisers are all being produced, and he can get it from them unless it has some bearing on the cross-examination.

THE COMMISSIONER: I hesitate to interfere too much with the cross-examination but presently I cannot see that it is helpful to me, but counsel assures me it will be.

MR. McMASTER: Q: How long had Mr. Ramsay been at

Chilliwack? A: I think he was up there about 7 or 8 years, too.

Q And Mr. Wormworth, where did he come from?

A Mr. Wormworth's headquarters were at New Westminister.

Q And what was his function?

A At that time, if I remember correctly, he was working on the War Veterans' Allowance.

Q That is, in terms of social assistance under the War Veterans Act?

A Yes.

Q And how long had he been working at that?

A I am not sure now, but I think he had been with us on that work about three or four years.

Q And having just joined the Department three or four years before?

A No, he was with the Department before.

Q Doing what? A: Prior to coming to us here in British Columbia, he was with the Department on the prairies.

Q In what capacity?

A I believe as field supervisor.

Q And Mr. Dodding, where did he come from?

A I think Mr. Dodding at that time was at Kamloops.

Q What was he doing there?

A Field supervisor.

Q And how long had he been there?

A Oh, I think he had been there about four or five years.

Q And Mr. Brown, where did he come from?

A Mr. Brown was at Kelowna.

Q What was he doing there?

A Field supervisor.

Q And how long had he been there?

A I think he was there probably six or seven years.

THE COMMISSIONER: Could you not deal with these men collectively instead of going through each one?

MR. McMASTER: They come from different areas, my lord.

Q If you will just give us the same detail with regard to each one?

A Mr. Sinclair was located at Penticton and I believe he had been in Penticton for a period of five or six years.

Q As a field supervisor?

A Yes.

Q And Mr. Plumbly? A: Mr. Plumbly, if I remember right, was at Courtenay as a field supervisor, andI think he had been up there for about six or seven years.

Q And Mr. McKay?

A Mr. McKay was at Telkwa, I think it was, and he had been there practically a period of about three years.

Q Did these duties of field supervisor involve the appraisal of land, Mr. Barnet?

A Yes.

Q And what type of land were these field supervisors appraising?

A They would be appraising the types of land found

in the supervision area in which they were residing and responsible for.

THE COMMISSIONER: Q: They were all concerned with agricultural land?

A Yes.

MR. McMASTER: Q: For what purpose would they be making appraisals? A: They would make appraisals called for of any of our own lands, that is Soldiers' Settlement lands. They had to make appraisals for us for rehabilitation purposes, for purposes of the Farmers' Creditors Arrangement Act on our own lands. They had to make appraisals for the Board of Review for the Farmers' Creditors Arrangement Act. Sometimes we were called upon to make appraisals for other Government Departments.

Q But that was not very frequently, I take it.

A Well, we were called upon to make appraisals some times for the Government on lands that were being taken over for Government purposes during the war.

Q What Department would that be?

A Sometimes I think it would be for the Department of Transport; different departments.

Q But that would be after these appraisals were made, is that correct?

A No, I think some of them were made prior to that.

Q In each of those cases, in making the appraisal, the appraiser would know the purpose for which he was making the appraisal?

A Yes, generally speaking he would.

Q Did you have any further discussion with Mr. Murchison following this letter or memorandum of April 27, 1942, either verbally or by way of correspondence, with respect to these appraisals?

A Not that I can recall right away. He may have sent me some letters after we got the appraisal work started.

Q Do you recall the tenor of those letters?

A No, I don't.

Q And you reported to Mr. Murchison from time to time as the appraisals progressed?

A Yes.

Q And, in fact, copies of them were sent down to him, were they not?

A Yes.

Q You stated yesterday that when you got back from Ottawa, you called together the inspectors and gave them general instructions.

MR. HUNTER: Excuse me, that wasn't his statement. They were called together before he came back.

MR. McMASTER: Q: When you came back from Ottawa, you met with these inspectors and gave them general instructions.

A Yes.

Q What do you mean by general instructions? Just what instructions did you give them?

A They were instructed to appraise the agricultural lands of people of the Japanese race.

THE COMMISSIONER: Q: To what end?

A To determine the present day value.

MR. McMASTER: Q:For what purpose?

A I couldn't say what purpose. The present day value of the lands; the present day sale value of the lands.

Q Did you indicate to them why they were to make these appraisals? A: The Government desired this appraisal to be made.

Q Did you explain to them why they were called upon to furnish a certificate relating to the suitability of the lands for the settlement of Veterans under the Veterans' Land Act?

A Yes, I explained to them that was for departmental use.

Q Referring again to Exhibit 59, Mr. Murchison's memorandum, he stated, "It was decided this afternoon . . . . . under the V.L.A." Do you know why that was decided between you and Mr. Murchison in preparing these forms for appraisers?

THE COMMISSIONER: I thought I had intimated to you, Mr. McMaster, that you need not pursue it. It is very obvious what the purpose was to everyone except Mr. Barnet.

MR. McMASTER: Q: Exhibit 60 is a series of letters which you wrote to these appraisers on May 12th and 13th, 1942. How soon before that had they undertaken these appraisals?

A Those are dated what?

Q May 12th and 13th. A: They had commenced the appraisals, I think, about a week

before that.

Q About a week before? A: Yes.

Q And prior to that, some of the appraisals had been handed to you? A: Yes.

Q Why were you so concerned at that early date, as you express in those letters, to protect the Soldiers' Settlement Board from a Court of Inquiry? A: Our appraisers have always had it impressed upon them that when they make appraisals, that some day the appraisal may be questioned and it might come before some court, and I simply wanted again to impress upon them the necessity of doing a good and thorough job.

Q That is true of any appraisal any appraiser makes, isn't it? A: Yes.

Q Was there anything special about these appraisals that you felt it necessary to draw those matters so forcibly to their attention again?

A I realized that it was going to be quite a big undertaking and that we should do the job carefully.

Q In the letter to Mr. Leslie, the first letter in Exhibit 60 that was filed, you state, "I would advise you to use . . . . . from time to time." Did the appraisers collect any data other than what appears in the appraisal reports at that time? A: I couldn't say for sure.

Q If they did, that information wasn't given to you?

A Not necessarily so.

Q Well, was any information given you of other data taken? A: I don't recall them giving me other data.

Q How could you review these appraisals and arrive at an opinion as to the value of the property without the other data that you urged them to collect in those letters?

THE COMMISSIONER: The fact remains that he did.

MR. McMASTER: Q: I draw your attention to the last part of that phrase, where you would say, "I would advise you to use . . . . . support your valuation." And I believe, also, in the letter to Mr. Wormworth you use a similar phrase: "You must also be prepared . . . . . in the last year or so." Is it fair to deduce from those statements that your appraisers had certain pre-determined standards of value on which they based their valuations and you wanted them to get evidence of other sales, or of other values, to support these pre-determined standards?

A They were appraising more or less constantly and would have data collected, and I wanted them to assure themselves that they were correct and keep themselves as up to date as possible on all knowledge.

Q What standard of valuation did they start off with to make an appraisal within a week or so after you received instructions from Mr. Murchison? A: Their standard of values would be largely the standard that

they knew to be current values.

Q Where would these appraisers who came in from out of town andhad been working out of town three to six years -- where would they get a concept of the standard of values of property in the Fraser Valley? A: They could consult local people. They could consult municipal officials, farmers and so on, as well as our own local officials.

Q Is that the way they arrived at a standard of values in the first week or so before they began appraising? A: I believe it was.

Q Who did they consult?

THE COMMISSIONER: Is this not a line of cross-examination that might more properly be taken with the individual appraisers who are going to be called?

MR. McMASTER: Q: Perhaps I ought to ask, first of all, whether Mr. Barnet himself supervised or conducted any of these investigations into standards of values.

A No, I didn't conduct them.

Q Did you supervise them?

A No. They were on their own to make their own investigations.

Q Do you know whether in fact the appraisers did get preliminary data at the time they were making these appraisals?

A I can't say for sure.

Q Do I understand correctly that all these appraisers have been out for the past four to six months, endeavouring to find supplementary data in the various municipalities?

A No.

Q Have any of them been out trying to find supplementary data in the last four or five months?

A You mean prior to making the appraisal?

Q Prior to this moment.

A They have been checking.

Q For how long? A: Some of them have been checking on this work for a period of five or six months.

Q How many?

THE COMMISSIONER: Q: What do you mean?

MR. McMASTER: Q: How many of the appraisers have been at it for five or six months?

A Two of them.

Q And have the other appraisers been engaged in that work as well in the last five or six months?

A No, not them all.

Q How many others have been engaged, and for how long? A: They have all been down here for at least a month or more.

Q You mentioned two in this job for five or six months. How many were at it for less than five months and more than one month?

MR. HUNTER: I don't know how relevant this is to my examination-in-chief, but it strikes me it is about as far away from it as anything I have heard.

THE COMMISSIONER: As far as I can see, it is not going to be very helpful to me. The fact that the appraisers have made a re-check is of some importance, but how long they spent on it seems to me to be really immaterial. Can you suggest what materiality it has, Mr. McMaster?

MR. McMASTER: I won't pursue it, my lord.

Q Referring again to Exhibit 60, the letter to Mr. Dodding, the last sentence in the second paragraph reads, "It is my belief . . . . . settling."

What areas were you referring to there, Mr. Barnet? A: Areas such as the Fraser Valley, Vancouver Island, the Okanagan, the more highly developed and more densely settled areas of the province.

Q You were referring to the whole of the Fraser Valley when you made that statement to Mr. Dodding? A: Yes.

Q And you anticipated it would be increasingly difficult to buy lands in those areas?

A Yes, I did.

Q Because there was a demand for land in those areas, I take it? A: I anticipated that if there was a large influx of veterans after the war, there would be a demand, an extra demand.

Q You didn't anticipate that demand would arise until the veterans came back?

A No, not a big demand.

Q In this correspondence and also in the memorandum you filed, you have gone to some pains to try to get the appraisers to set out the specific acreages of small fruits.

THE COMMISSIONER: You are embarking on a new line of cross-examination?

MR.McMASTER: Yes, my lord.

THE COMMISSIONER: Perhaps this might be an appropriate time to recess.

(PROCEEDINGS RESUMED AFTER SHORT RECESS.)

MR. McMASTER: Q: Mr.Barnet, just before we adjourned I had referred to this letter to Mr. Dodding and the last sentence of the second paragraph, "It is my belief. . . . . " I presume you meant by that reasonable prices to your department?

A Yes.

THE COMMISSIONER: What exhibit is that?

MR.McMASTER: Exhibit 60, my lord.

Q In these letters and in the memorandum you sent to the appraisers, you urge upon the appraisers that they should set out the specific acreages of small fruits, and I take it from the evidence you have given that you weren't interested in the yield from those acreages?

A No, not particularly.

Q And the reason why you wanted those acreages, judging from the correspondence, was that you were afraid that the appraisal might be attacked by the owner.

A We wanted to know as accurately as possible what

was on the properties.

Q And it was not with the purpose of placing any value on the plants on those acreages?

A Not necessarily so. Those crops might be there, but the plantations might not have any commercial value.

Q Your purpose in asking for these specific acreages, however, was not for the purpose of determining the crops that those plantations might be capable of producing?

A No.

Q And you would not expect the existing plants and bushes, to be on the properties when soldiers ultimately bought these lands?

A Not necessarily so.

Q These letters in Exhibit 60 were written after you had an opportunity to review some of the appraisals of the various persons to whom you had written the letters?

A Yes.

Q And from the subsequent appraisals which you received from these men, did it appear to you that they had given effect to your advice in their subsequent appraisals?

A Yes, they showed the acreage in various crops.

Q I am referring to all the matters you referred to in the correspondence, in the advice you gave them. From their subsequent appraisals, did it appear that they had taken your advice?

A I would say, generally speaking, yes.

Q Referring to Exhibit 65, the second memorandum dated May 15, 1942, you state their, "I realize the many contradictions . . . . . may establish."

What were you referring to there when you used the phrase "standard of values"?

A I fully expected that as they checked around to find sales and so on, they would find properties to some degree that were similar but quite a variation in probably the price at which they may have sold.

Q Will you just explain what you meant by standard of values? A: And they would have to make up their own minds as to what they considered to be a fair market value in view of all the information that would be at their disposal.

Q And was each appraiser to set a standard of values of his own?

A No direction was given to an appraiser as to what price he should find.

Q And did the appraisers, in fact, to your knowledge, consult together in arriving at a standard of values? A: No doubt they discussed the matter.

Q Do you know whether they arrived at any standard amount? A: I haven't any doubt they would arrive at an approximate standard, what they thought was a fair market value.

THE COMMISSIONER: Q: Do you know this of your own

knowledge? A: I gathered it from the appraisals.

Q That is an inference you drew from the examination of the appraisals that came into you?

A Yes.

MR. McMASTER: Q: Might I refer to the first sentence of that paragraph, the second paragraph in the memorandum of May 15, 1942: "It is only natural . . . . . individualistic point of view."

Do I take it that you were desirous that they should get away from the individualistic point of view to a collective point of view?

THE COMMISSIONER: Mr. McMaster, irrespective of what Mr. Barnet sought to convey to these appraisers by his letter, is not the material matter what the appraisers understood the letter to mean rather than what he intended it to mean?

MR. McMASTER: Well, yes, my lord, thatis an important part of it. On the other hand, Mr. Barnet, I take it, was in charge of this whole business.

THE COMMISSIONER: True, he was, but he may have sought by the use of certain language to convey a particular thought to the appraisers, but he may have failed to convey it. That is what I am pointing out to you.

MR. McMASTER: Yes, my lord.

Q You examined all these appraisals?

A Yes.

Q From your examination of those appraisals, would you say that the appraisers succeeded in getting

away from this individualistic point of view that you were warning them about in this memorandum.

A No, I wouldn't say that they lost their individuality at all, because that is something we want to maintain in appraisals: To use his own language and his native ability to arrive at valuations of property.

Q But as to standards of value, they were remarkably consistent, isn't that correct?

A I would say their valuations were reasonably consistent.

Q In the first sentence, it says: "It is only natural . . . . . ramifications." What ramifications were you referring to?

A In approaching an appraisal problem of any nature, particularly in war time, there is the possibility that prices of land or farm commodities might go up quickly or might drop very quickly. One never knows trends in population particularly, under those conditions, and one never knows when Government might bonus a crop or they might order that certain types of crops be not produced at all, or the production greatly curtailed. Manpower might be directed off farms, certain types of farms.

Q The first of those problems with regard to crops wouldn't be any serious ramifications for the appraisers, because they weren't interested in the yields of these farms, isn't that correct?

A No, we were not particularly interested in the

yields.

Q The last sentence of that second paragraph reads, "We will simply . . . . . all concerned."

What did you mean by "thought fair to all concerned"? A: I meant by that that should government authorize the Custodian to sell property, that their values would be fair to not only the buyer but also to the vendor.

THE COMMISSIONER: Q: Whom do you mean by the buyer -- the ultimate buyer, the veteran?

A Not knowing whether the Government would ever sell or not, the buyer might be any person.

THE COMMISSIONER: The letter was to whom?

MR. McMASTER: It was a memorandum to the inspectors.

Q Mr. Barnet, from the evidence which you gave yesterday, is it being fair to conclude that unless the appraisals specifically indicated that the property might have other uses and specifically put a value on those other uses, that all of the lands were appraised as farm lands and the values put on them were farm values?

A No, I wouldn't be prepared to state that all the values put on by every appraiser would be a farm value only, unless he otherwise stated. I qualified that yesterday, if I remember correctly, by saying that some appraisers stated that they had put on a farm value but if there was another value, it hadn't been taken into consideration.

Q What were the appraisers instructed to do with regard to these appraisals -- to appraise on a

farm value basis.

A They were instructed to appraise the agricultural lands and at present day or fair market value.

Q What about any other lands that they were instructed to appraise?

THE COMMISSIONER: Any other Japanese lands, I take it.

MR. McMASTER: Yes.

A They were all termed that, as far as the general instructions.

Q So that those instructions applied to all the Japanese lands they were to appraise?

A Yes.

Q Now, what do you mean by a farm value, Mr. Barnet, or an agricultural value, whatever phrase you want to use?

A The farm value would most likely reflect the fair market price for a particular piece of property where the use was chiefly, probably, for production of crops. In farm value, many people more or less described it as farming is a mode of living. In other words, the average farmer takes into consideration the home value of his property; he lives on his prpperty.

Q You have used the phrase "present day value": What do you mean by that phrase?

A The value that a property probably would sell for from a willing vendor, who didn't have to sell, and a purchaser who was willing but didn't have to buy. That would be a value that

probably would be a reasonable valuation for a period of possibly a year.

Q You stated yesterday that you gave copies of P.C.5523 to each of these appraisers. When did you give them copies?

MR. HUNTER: I think he said it was his thought he had sent them.

MR. McMASTER: Q: In any event, Mr. Barnet, if you did send or give copies of P.C. 5523 to the appraisers, when would it be you gave it to them?

A It would be somewhere around the 1st of July.

Q And at that time a substantial number of the appraisals had been done?

A Yes.

Q Did I take it from your evidence yesterday that you were of the opinion the appraisers had put a high value on uncleared land in these appraisals? A: In some cases, in my opinion, the value of uncleared land, considering the acreage of uncleared land on the property, was probably too high.

Q I took it from your evidence yesterday that you expressed the opinion that the values placed on these lands by the inspectors as a whole were a little more generous than your opinion of their value. A: Yes.

Q Is it not true that in some cases you increased the value? A: Yes, there were a few cases where I increased the value.

Q And isn't it true that in 90% of the cases, the

only change in the value which you made was to bring the figure to the nearest $100.00?

A I wouldn't be able to say what the percentage is, but there was a vast difference between their opinion and my own opinion.

THE COMMISSIONER: If I might interject, my note on the subject of p.C. 5523 is to the effect that copies were furnished to each appraiser.

MR. HUNTER: Yes. Mr. McMaster used the words, "were handed to the appraisers".

MR. McMASTER: I realized that it was my learned friend's objection, my lord.

Q Would it be fair to conclude that the appraisers had taken into account all the things which you stated yesterday tended to decrease the value of these pieces of property, in view of the fact the values were so close to it?

THE COMMISSIONER: Will you state your question again?

MR. McMASTER: Q: In view of what you stated that your values were very close to the valuesof these appraisers, would it be fair to conclude that the appraisers had taken into account all the things which you stated yesterday tended to decrease the value of these Japanese properties?

A Yes, generally speaking.

Q And did you arrive at that conclusion from your review of the actual appraisals which they made?

A Yes.

Q You mentioned yesterday that the price of farm produce had been low in 1942, when these apprais-

als were made. How were the prices of farm produce in 1943, when the Director of Veterans' Land Act bought these properties?

A The prices, generally speaking, were rising.

Q I put it to you that there had been quite a sharp rise in prices between 1942 and 1943 in farm produce? A: In some crops there would be.

Q In small fruits? A: The price was rising fairly quickly.

Q Mr.Barnet, you mentioned yesterday that the Regional Advisory Committee would have likely had as one of its duties the examination of each appraisal. Did the Committee, in fact, examine all the appraisals of the Japanese properties?

A I don't know.

Q Do you know whether there are any records or notes of the opinion of the Commitee with regard to these appraisals?

A No, I don't think there are.

Q You indicated yesterday that the Soldiers' Settlement Board had appraised over 1,000 Japanese properties. I understood you correctly, did I? A. Yes.

Q However, they only purchased 769 of the 1,000.

A Yes, approximately ~~0~~ 741.

Q That is right. You had made an offer on 769, I take it? A: Yes, our original offer was on 769 parcels.

Q Did the Director of Veterans' Land Act select

the 741 out of the over 1,000, or did the Custodian?

THE COMMISSIONER: Was that not dealt with yesterday, too? As I recall, the witness told us he didn't wish to acquire certain of them because they were not adaptable to the use that it was proposed to put the lands to.

MR. McMASTER: Q: I take the suggestion to be -- and you might correct me if I am wrong -- it was the Custodian who insisted that you buy these particular 741 parcels?

A His lordship is correct when he states that I gave evidence to the effect that there were certain types of properties that we were not interested at all in and couldn't take, because they wouldn't come within the scope of our Act; such as churches, schools, hospitals, co-operative plants.

Q Mr. Barnet, would you deal with the question I am asking you, and that is: Was it the Custodian or the Custodian's Committee who insisted you take these particular 741 parcels, or was that a selection by the Director of Veterans' Land Act Committee or some official had made?

A They indicated we would have to if we were going to buy, apart from these types we have eliminated, that we would have pretty well to take these properties en block

Q Who indicated that to you, Mr. Barnet?

A I think that was indicated to me by Mr. McPherson.

Q And when? A: On or about the time they were prepared to put these properties on the market for sale.

Q Did the Custodian approach you asking whether V.L.A. would buy these properties, or did V.L.A. approach the Custodian to ask him to sell?

A As I recall it, the Custodian approached me.

Q On what date? A: I can't tell you.

Q In what manner? A: A verbal discussion.

Q Between? A: Between Mr. McPherson and myself.

Q Did Mr. McPherson make any mention in that discussion of the fact that he had been instructed by the Rural Advisory Committee to the Custodian to prepare a catalogue of these properties and an advertisement for public sale?

A Would you mind repeating that question?

Q Did Mr. McPherson, in that conversation you have just referred to, indicate to you that he had been instructed by the Rural Advisory Committee for the Custodian to prepare a catalogue of these properties and a notice for public sale?

A I don't recall that. I don't remember.

THE COMMISSIONER: I would like to be sure you understand the question put to you when you gave the answer, that the Custodian approached you regarding the purchase of Japanese farm lands by the V.L.A. Was that the first intimation you had that the lands were available and the Custodian desired

you to bid on them.

A Yes, I think it was.

Q And I presume that took place before every you had instructions to make the appraisals, is that correct? A: No, this would be after the Order-in-Council came in authorizing the Custodian to sell both the urban and rural properties.

Q Will you relate it to the time when you had instructions to make the appraisals?

A The instructions to make the appraisals were the end of 1942, and I am now referring to March, 1943.

Q It was long after? A: Yes.

Q This approach by the Custodian was long after the appraisals had been completed?

A Oh,yes. The appraisals were completed, I think, on or about the end of August, 1942. I think, your lordship, that there was an Order-in-Council No. 469 dated January 19, 1943, which authorized the Custodian to sell and took the director out of the picture. He had no more authority at all over leases or sales.

Q The director of the Soldiers' Settlement Board?

A The director of the Soldier's Settlement Board.

MR. McMASTER: Mr. Barnet, at page 206 of the Public Accounts of the minutes of proceedings and evidence of the Standing Committee on Public Accounts, Volume 9, May 22nd, 1947, records what purports to be an extract from a minute of a

meeting of the Rural Advisory Commitee of the Custodian, and it refers to page 3 of the minutes: "I wish to read an extract from the minutes as follows . . . . . Japanese owned land." Were you aware of that attitude on the part of the Soldiers' Settlement of Canada prior to Mr. McPherson's speaking to you about the matter?

A We were then set up to purchase land under a clause in the Veterans' Land Act to permit the Director to purchase land as backlog, without having any direct applications from the veteran.

THE COMMISSIONER: Q: Getting away from all this detail, the suggestion in the question counsel puts to you is that the initial approach was made by your department to the Custodian and not by the Custodian to you, as you have expressed it. Am I right in that, Mr. McMaster?

MR. McMASTER: Yes, my lord.

THE COMMISSIONER: Q: What is your view?

A The Custodian here approached me. That is my recollection.

MR. McMASTER: Q: Do you know whether before you spoke to Mr. McPherson your department in Ottawa had any discussion with the Department of the Secretary of State? A: No, not that I am aware of.

Q You mentioned yesterday that taxation was a big factor. At the time the D.V.L.A. purchased the properties, the revenue from the properties considerably exceeded the taxes, is that not correct?

A Yes, I believe it is.

Q Exhibit 61, as I recall your evidence, is a list of the properties which were on hand in September, 1948 -- the Japanese properties remaining unsold. A: Yes.

Q And there were 48 parcels listed there, and on the back page of Exhibit 61 I notice that there are eight parcels marked "Not to be sold" or "Not for sale." Would you just take a look at that.

A Yes.

Q So that actually there were only 40 properties left of that group in September, 1948.

A Those included the Soldiers' settlements.

Q It includes three of them.

A Yes.

Q But there were eight altogether.

A I am rather under the impression, speaking from memory again, that there were one or two men who are veterans of this war whose properties are in these lists, and we have received instructions not to sell them.

Q So that, as at September, 1948, the Department had left on its hands only ~~fixx~~ 5.4% --

THE COMMISSIONER: That is a matter of documents.

MR. McMASTER: Q: And on the last page of this certain figures appear. Do I take it that this figure of $18,874.00 is thetotal amount which you have paid for those forty properties that were left on your hands?

THE COMMISSIONER: I do not understand your question.

MR. McMASTER: Q: The total amount that the V.L.A. had paid for the 40 properties.

A Yes, I would expect that is what it is.

Q And some of those properties are marked as being suitable for veterans, is that correct?

A Yes, that is correct.

Q As I recall your evidence correctly, yesterday you said in fact since September some of them have been sold or spoken for.

A Yes, there have been some properties sold since September.

Q Do you have any doubt if you were prppared to offer these properties for public sale to civilians or veterans, that the Department could recover the full $18,874.00 that they paid for them?

THE COMMISSIONER: I have no doubt they could, with the rise in the market in the meantime.

MR. McMASTER: My lord, I am proceeding to a new part of my cross-examination.

THE COMMISSIONER: We have got another ten minutes to go. Go ahead.

MR. McMASTER: Q: Mr. Barnet, in 1942 and 1943, you were directly responsible to Mr. Murchison.

A Yes.

Q And Mr. Murchison required to rely to large measure for his knowledge of conditions prevailing in British Columbia upon you?

A Yes.

Q And Mr. Murchison would have to rely on your reports as to the manner in which the appraisals

were carried on? A: Yes, I would say he would.

Q And would you say it is fair to assume that Mr. Murchison's understanding of the facts relating to appraisals and the sale to V.L.A. would be primarily based upon the information you supplied to him? A: Would you mind repeating that?

Q Would you say it would be fair to assume that Mr. Murchison's understanding of the facts relating to the appraisals and the sale would be primarily based on information you would supply to him?

THE COMMISSIONER: I do not appreciate how this witness can answer that question. Put the question to him if he is aware that Mr. Murchison had any other source of information than this.

MR. McMASTER: Q: I will put it that way: Are you aware whether Mr. Murchison had any othersource of information relating to the appraisals and the sale? A: No, I am not aware.

Q As the District superintendent, I presume that these inspectors who made these appraisals were under your direction and supervision.

A Yes.

Q And you gave them the instructions as to how they were to go about the problem.

A Yes.

Q And you carefully reviewed every appraisal report?

THE COMMISSIONER: He has said so, Mr. McMaster.

MR. McMASTER: Q: On what did you express your opinion as to the value in those reports?

A Would you mind repeating that?

Q In the appraisal reports which came in from these appraisers, in each case you expressed an opinion as to value. On what basis did you express that opinion as to value?

A Based largely on the information contained in the report from the appraiser.

Q And did you base it on any other information that the appraisers gave you?

A Well, my own general knowledge of the district.

Q At page 181 of the Public Accounts Committee, Mr. Murchison answered a question. The question was: "And I suggest to you . . . . . conservative." And Mr. Murchison's answer was;" I think I have so stated."

Would you agree with the opinion expressed by Mr. Murchison?

A Yes, I think that our valuation was a sound, conservative valuation.

Q I think you have already said in your evidence that the valuations of the appraisers were made, having regard to the hazards and uncertainties of 1942? A: Yes.

Q That is with regard to the war?

A Yes.

Q In the Public Accounts Committee, Mr. Barnet, Mr. MacKenzie, who was on the Rural Advisory Committee

of the Custodian, is reported to have expressed the opinion that in January, 1943, there was a public demand to buy these Japanese properties. Do you know whether or not that was so?

A I have no knowledge of it and I think it would come to me, inasmuch as, as the Director's representative here, all applications to sell these properties had to be approved or otherwise by the Director, and we were not getting any requests worth mentioning to sell properties from the owners.

Q And the Order-in-Council to which you are referring, under which you had the direction, was lifted in January, 1943, is that correct?

A Yes, that is correct. I am referring to other than when P.C. 5523 was in effect.

Q And I take it from your evidence you don't know whether or not there was a public demand after that was lifted?

A Not that I am aware of, but the administration, after that Order came in, was entirely out of our hands.

THE COMMISSIONER: Q: You are referring to farm lands in the Fraser Valley generally, because at that time you did not own these Japanese lands?

A No, we didn't own them. After the 19th January we had nothing to do with them.

Q So when you say you do not think there was much demand, you are referring to Fraser Valley farm lands generally as of January, 1943, is that

correct? A: Yes.

MR. HUNTER: Your lordship will recall that under 5523 land couldn't be listed or sold without approval of the Director of the Soldiers' Settlement Board.

THE COMMISSIONER: The Japanese land.

MR. HUNTER: Yes, my lord.

THE COMMISSIONER: That is true.

MR. McMASTER: Q: Any application you would receive with regard to the sale of these properties covered by the Order-in-Council, the Japanese properties, what encouragement did you give prospective purchasers as to the probability of being able to buy them?

THE COMMISSIONER: He has not said he had any prospective purchasers.

MR. McMASTER: I thought he said he did have some inquiries with regard to them.

A Yes, we had some inquiries. The policy there would be this: If we had an inquiry from someone wantint to buy a certain property, we arranged through the B.C. Security Commission to ascertain the new address of the Japanese and forwarded the request to him and asked him to let us know whether he wanted to sell his property or otherwise, and if he wanted to sell it, at what price.

MR. McMASTER: Q: And then what happened?

A The vast majority of the replies came back that they didn't want to sell their lands.

THE COMMISSIONER: Now is an appropriate time to adjourn. We will resume at 2:15.

(PROCEEDINGS ADJOURNED UNTIL 2:15 P.M.)

I hereby certify the foregoing to be a true and accurate report of the said proceedings.

Deputy Official Stenographer

Vancouver, B. C.,
November 30th, 1948. 2:15 P.M.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: Yes, proceed, Mr. McMaster.

I. T. BARNET, resumed the stand, testified further as follows:

CROSS-EXAMINATION CONTINUED BY MR. McMASTER:

Q Before we adjourned, Mr. Barnet, we were discussing certain properties, Japanese properties, with respect to which you received inquiries as to the purchase of them, during the time that P.C. 5523 was in effect, and you mentioned that you referred those inquiries to the Japanese, and in the majority of cases the Japanese did not want to sell. Were there any cases in which the Japanese did indicate that they were willing to sell?

A Yes, there were two cases.

Q And are those the two cases that are referred to in the schedule in Volume 15 of the Public Accounts Reports which Mr. Murchison filed?

A Can you tell me the names of the prospective purchasers?

Q I cannot tell you the names of the prospective purchasers. Are you able to advise the Commissioner as to the details of the legal description of the properties and the terms of sale? A: In one case the Official Administrator, Mr. Jack Streight, in New Westminster, applied to have the

sale of the property approved at, I think it was, $800.00, and it was submitted to our head office, and the sale was approved. In one other case I believe the price that the vendor wanted was $1500.00, and the prospective purchaser was a Mrs. Arkell, if I remember correctly, and that sale was not -- that application for sale was not approved.

Q Well, you mentioned one other case where there was a sale, or do you say there was only one case? A: One approved, and one declined.

Q Would you be able to provide the Commissioner -- I realize you cannot do it from memory now, but say tomorrow, as to the legal description of that property and the details of the sale that was made, and also as to the appraisal that had been made by your Department?

A Yes, I think we can.

THE COMMISSIONER: How is that going to be helpful to me?

MR. McMASTER: I am interested in comparing the sale price and the appraisal price.

THE COMMISSIONER: It only relates to one property. It cannot be very helpful.

MR. McMASTER: No, I think perhaps we ought not to pursue it. We have anumber of examples.

THE COMMISSIONER: If it is only one property I do not see how it is going to carry much weight.

Q Now, Mr. Barnet, in the report of the Public

Accounts Committee, Volume 8, page 182, Mr. Murchison is reported as having said that, "In the meantime it became known . . . . . by competent authority". Do you agree with that statement as to the circumstances in thespring of 1942?

THE COMMISSIONER: Just what are you asking the witness to agree with?

MR. McMASTER: "That it became known that the Japanese owners in the certain knowledge they would be obliged to leave the defence area were making emergency rentals of their properties."

THE COMMISSIONER: Do you know that as a fact?

A Yes, they were arranging a lot of leases, or their agents were.

MR. McMASTER: Q: They were arranging a lot of sales, or some sales as well?

A Yes, I think some sales had already taken place.

Q From that statement is it fair to infer that many of the emergency rental arrangements and sales were improvident?

A I don't know about sales, but before the year was out a great number of tenants were in financial difficulties over their leases.

Q However, at the time in 1942 when they left, did your Department consider the rental arrangements that had been made as being improvident?

THE COMMISSIONER: From the point of view of the owner of the land.

MR. McMASTER: From the point of view of the owner of

the land.

A Some would result that way for the reason that they were so high priced that the tenants found themselves without funds to carry on and maintain them.

Q Now, Mr. Barnet, would you answer the question, please? From the point of view of the owner was it your experience in 1942 that when those people left in conditions of emergency that the rentals they made were improvident from their point of view?

THE COMMISSIONER: What counsel means is did the owner rent the land at too low a rental, so low as to be improvident?

A No, he didn't rent it as a rule too low -- too low for the properties.

MR. McMASTER: Q: Mr. Murchison gave that as one of the reasons for 5523. Would you disagree?

A There were leases at more or less nominal sums or for the duration of the war that were at less figures than would probably be obtained on the open market at that time for the places.

Q Would it not be reasonable to assume that some of the sales of the land would likewise be at less than the fair market --

MR. HUNTER: My lord, that is a conclusion that he is asking for from the witness.

THE COMMISSIONER: How am I concerned with it, in any case? If the Japanese owner sold his land have I any jurisdiction to deal with the matter?

MR. McMASTER: No, my Lord, I am not interested in those particular Japanese owners or what their position is.

THE COMMISSIONER: Why introduce the subject? How is it relevant to this inquiry?

MR. McMASTER: I submit it is relevant because I want to know whether or not the Soldier Settlement Board took the factor of these sales into consideration in making their appraisals.

THE COMMISSIONER: As a yardstick?

MR. McMASTER: Yes.

THE COMMISSIONER: Why not put the question to him?

MR. McMASTER: Q: Mr. Barnet, where sales by Japanese in the circumstances described by Mr. Murchison taken into account by your Department as a yardstick for your appraisals?

A Not always. Some of the appraisers definitely state in the appraisal that they knew what the property was being sold for, but they were putting their own opinion of the value upon it.

Q Mr. Barnet, at page 189 Mr. Murchison makes this statement, "We did not appraiser those properties from thestandpoint . . . . .(reading)." Do you agree with Mr. Murchison's statement with regard to these appraisals?

A Yes.

Q And at page 192 Mr. Murchison was asked the question and gave the answer to which I now refer, "I think if you will take . . . we were

dealing with what we considered was the equity of the Japanese having regard to the problems confronting the Dominion Government in looking after those lands." Do you agree with Mr. Murchison's statement of fact with regard to those appraisals?

A Would you mind repeating that again?

THE COMMISSIONER: I think you should have the text before the witness.

MR. McMASTER: Very well, my lord, on the top of page 192. A: No, my instructions to my appraisers as to part of the methods of arriving at values was to collect as much evidence as possible on the place.

Q When did you give those instructions, Mr. Barnet?

MR. HUNTER: My lord, they were read this morning, in the letter.

THE COMMISSIONER: He said he did, in chief, before the appraisals were made.

MR. McMASTER: Q: So you disagree with Mr. Murchison's statement them?

A Yes, we took that in as one of the factors.

Q Have you any idea where Mr. Murchison would get that idea? A: No, I don't.

Q Now if I recall rightly in Exhibit 60 which you filed this morning, which was your memorandum, there was a memorandum dealing with the length of time it took those appraisers to make their appraisals. Do you recall that?

A Yes.

Q If I recall rightly they were only doing 1.1 per day? A: Yes.

Q Per appraisal? And they appraised over a thousand properties?

A Eventually, yes.

Q In approximately four months, is that right?

THE COMMISSIONER: A little over five, according to what he gave us yesterday. It started in May and wound up in September.

MR. McMASTER: Q: Was it the end of September they wound up?

A I think so, around the end of September before we finished.

Q And they made all those appraisals in that period -- yes, there were nine of them -- is it not a fact that sometimes they worked in teams of two or more? A: Yes.

Q They made a thorough examination of each property determining the type and depth of the surface soil, and the nature of the under-soil, and measured the acreage under crop, determined the boundaries of the land and measured and inspected each building, gathered information from the neighbours, and wrote up a long detailed report on each property. Is that right?

A I want to make it clear when you say they worked in teams, we were under general instructions at the time to cut our gasoline consumption if at all possible, the mileage, by 75% in doing this work. In order to save expense, to conform with the regulations on that point, two

men more or less worked from one car, using one car. Now they did not team up on the individual work, of the individual properties, always. They worked as an independent appraiser on each individual property.

Q In order to determine as to whether any property was comparable, the appraiser would have to spend a similar amount of time obtaining the necessary amount of information of a comparable property. Is that not fair to expect?

A No, not as much.

Q But a considerable amount of time?

A Once they found a certain property they could use that sale probably as a comparison for several other properties they were appraising.

Q How do you account for the fact that very few of those appraisal reports give very few details of comparable property?

A At that time they were probably not finding a great number of other sales and possibly they may not have always mentioned a sale within their report.

Q Was it your impression where they found comparable sales they were mentioned in the report?

A Not always, no.

MR. HUNTER: My Lord, I do not think that question serves any purpose. Surely this can be obtained from the appraiser and I think he is the only person.

THE COMMISSIONER: I think a good deal of this cross-examination is subject to comment. Don't let it

cover the ground twice.

MR. McMASTER: I appreciate that but I take the position that Mr. Barnet was superintendent of the Soldier Settlement Board and he is thoroughly familiar with those appraisals. He was supervising the work that was done.

THE COMMISSIONER: But any answer he gives you on a question of this description is inevitably hearsay, what he had been told by the appraisers.

MR. McMASTER: He has read all those appraisals.

THE COMMISSIONER: So have you.

MR. McMASTER: That is why I cannot understand his answer.

THE COMMISSIONER: Why don't you face him with some of them then?

MR. McMASTER: That is what I am going to do right now. I would like to refer to case 857. I believe Mr. Watson has brought up the appraisal in that case. May I show the witness my copy?

Q I draw your attention to the note on page 3 of the report which was filed in 857 as Exhibit 3, and it reads in part as follows: "This is a very nice holding . . . . . Nakano's place". Your appraiser put a value on the Nakano place including the additional three acres; that is on 7.13 acres of $2913.00. Will you just refresh your memory on that appraisal?

THE COMMISSIONER: It would indicate that the appraiser has not been greatly influenced by the selling price of the next door farm.

MR. McMASTER: Q: Would you agree with the comment that his Lordship has just made, Mr. Barnet?

A That the appraiser was not influenced?

Q Would not appear to have been.

A No.

Q You reviewed that case yourself and placed a value upon it of $3000.00. In other words, you raised the $2913.00 to $3000.00. Did you yourself give any effect to the comparable ppoperty referred to in the report by the appraiser?

A No, I don't think I did.

Q Mr. Barnet, if you had instructed your appraiser to take into consideration in arriving at their appraisals sales of comparable properties, why did you approve that appraisal and place a value of approximately the same as the appraiser did? A: Because I assumed that the appraiser, in his opinion, felt that this was a fair valuation of this property, and that the other property had probably sold at a higher figure than he could see the value for.

Q Did you ask the appraiser anything about the reason for his disregarding the other sale?

A No.

Q May I have the appraisal in Case No. 500, please? I produce to you the appraisal in case No. 500, Mr. Barnet, and I refer to the third page, the comments of the appraiser in the third paragraph. "As an agricultural lay-out, that is one upon which a man might be expected to make a living . . . . .not all under cultivation." Now, that

property was appraised at $800.00 by the appraiser and you fixed the value at a thousand dollars. Can you explain why you and your appraiser disregarded the comparable property referred to in that appraisal?

A Well, that was a case where the appraiser apparently has stayed with what he thought was properly the farm or agricultural value although he has indicated some other potential value which he apparently has not taken into consideration in his valuation. I allowed another $200.00, about $40.00 an acre more.

Q You notice what he says; even as it is, it would bring in the neighbourhood of $200.00 an acre for the land, or say $1500.00 for the layout as it sits today.

THE COMMISSIONER: What is the value of that?

MR. McMASTER: He values it at $800.00, my lord.

Q Now, Mr. Barnet, in the face of that appraisal, you say that you instructed your appraisers to take into consideration, when making their valuations, comparable properties?

THE COMMISSIONER: He may have instructed them and they may have failed to obey instructions.

THE WITNESS: Yes, we issued the instructions.

MR. McMASTER: Q: Well did your appraisers take into consideration comparable properties?

A Not always, no.

Q Do you know whether or not they were taking them into consideration?

A I could not be sure.

Q Having issued those instructions when you received an appraisal like this, Case No. 500, why did you not take the matter up with the appraisers and say, "Follow the instructions that have been given to you"?

A No, I don't think I did.

Q Why not? A: Well, likely he would have his own idea of his values.

Q Now, Mr. Barnet, how can you say in Case 500, the one you are just looking at -- how can you certify that the present day value was a thousand dollars in the face of the information that the appraiser had given?

A Well, that was his opinion as to what it might sell for. I, on the other hand, was not as optimistic.

Q What did you mean by present day value when you said the present day value of that property was a thousand dollars?

A I figured that he may have been high on his estimate on what it would bring.

Q Despite the information that he gave you that the property next door two years previously with less clearing had sold for $1600.00?

A Yes.

Q What do you mean by present day values?

THE COMMISSIONER: He has already told us that.

MR. McMASTER: Very well.

Q Now, Mr. Barnet, I have two copies of other appraisals here. I have not the case numbers on them, my lord. I am sorry, my lord, I came across

those last night. But I can give you the J.L. number, that is the number that was assigned to the J.P. form, so that will assist my learned friend.

a THE COMMISSIONER: Perhaps Mr. Watson can run them down for you from the record in the filing office.

MR. McMASTER: I think he would find it extremely difficult, my lord. I find it so even with my

10 index.

THE COMMISSIONER: What are the names of the parties?

MR. McMASTER: Furukawa, J.L. 6 -- it may be C. or G., and the other is named K. Kato and S. Sato, J.L. 342.

THE COMMISSIONER: You might see if Miss White can bring those down for you.

MR. McMASTER: Q: Mr. Barnet, did you instruct your appraisers to take ~~them~~ into consideration

20 the recent purchases of those properties which were being appraised; that is, recent purchases by the Japanese owners?

A Where they have just bought a few months or a year prior?

Q A few years prior, within three or four years.

A No.

Q And do you know from your view of the appraisals whether any effect was given to the recent purchase price of those properties?

30 A If they knew about it, they would have that

information. Then would arrive at their own opinion of value irrespective of what was paid for the place.

Q And when you express your opinion of value on reviewing the case, did any information contained in the appraisal with respect to recent purchases affect your opinion of value?

A Not necessarily.

Q Would you suggest, Mr. Barnet, that the cost of acquisition of property has not relation to present day value?

THE COMMISSIONER: Is that quite a fair way to put it? for, after all, the acquisition in this case was made by a Japanese of properties within a Japanese community, and where all the Japanese facilities for marketing products, and so on, were available.

MR. McMASTER: Well, in those two parcels that I refer to, my lord, in describing the district they are described as British and Protestant with some Japanese in both cases. One is in Hammond and the other in Whonnock.

THE COMMISSIONER: The Japanese population was there for the moment. I point that out to you. You can proceed with it, if you wish, but on the face of it it sets up for comparison something that in my judgment is by no means comparable.

MR. McMASTER: I would like to just draw attention to the two statements with reference to the properties. It will be a matter for argument

later. Dealing with J.L. 6, Furukawa case, I draw attention to the statement on page 3 of the report, "I am informed that Furukawa bought this property . . . . . ". The appraisal in that case was for $1400.00, and your valuation was $1400.00. As I pointed out to his Lordship the property was situated a mile from Hammond in a neighbourhood described as British and Protestant with some Japanese. Now, did you disregard that information in ~~taking~~ placing a value upon that property yourself?

THE COMMISSIONER: Considering that the cost was more than 100% greater within two or three years.

THE WITNESS: This is located in an area where the Japanese population was quite heavy and I believe sometimes in order to get into certain sections in there, they were prepared to pay more than the average white buyer would pay.

MR. McMASTER: Q: Then you disagree with the description of the locality, do you, that the appraiser gives that it is predominantly British and Protestant with some Japanese?

A No, I would not disagree with that. It all depends how wide a range of area he was taking into consideration, but there were some around in that area, one of the heaviest settlements of Japanese in and around Hammond.

Q And you say that was the reason you disregard that purchase price?

A Well, the appraiser made this appraisal. There

is no doubt in my mind that he has taken all those factors into consideration, and I believe that he was pretty well on the right price.

Q I draw your attention to J.L. 342, K. Kato and S. Sato. In that case the district is described as being predominantly British and Protestant with some Japanese. This was about one mile from Whonnock and on page 3 the appraiser says, "Undeveloped loggedover bush . . . . .". Your appraiser puts a value of $49.20 on it, and you place a value of $50.00 on it. What comment do you have to make as to whether you gave any effect to the recent purchase of that land? A: It is true the Japanese owner apparently paid twice as much as our appraiser appraised it at,,but when we get into those small figures around $100.00, it is all often a question of price, a man wants a certain block of land and he will pay a price irrespective of whether he can buy logged off land in the vicinity for a lesser figure. He may have wanted it for a particular purpose.

Q Was it your experience that tax sale properties and vacant land usualy sold at a very high figure in relation to the general market, Mr. Barnet? A: No.

MR. McMASTER: I have another appraisal report, my lord. I think I gave the case number to Mr. Watson. It is Case 877.

THE COMMISSIONER: Proceed with the examination on your own copy.

MR. McMASTER: Q: Now in this case, Mr. Barnet, at page 3 of the report, he says, "The property is well situated on Lougheed Highway . . . . . should sell readily at $500.00 or better." The appraiser put a value of $430.00 on it, and in reviewing it you reduced it to $400.00. Can you say why the appraiser would only appraise it at $400.00 when he thought it would sell readily for $500.00? and why did you reduce it to $400.00?

A As I pointed out I am practically in agreement with him on his value, and the sum is not a large one. Someone might pay $500.00. On the other hand, I figured that the fair market value was $400.00.

Q In other words, you and your appraiser were being extremely conservative, is that not right, Mr. Barnet? A: We put the valuation that we thought was fair and maybe somewhat conservative.

Q A value at which you did not figure you would be taking any risk?

A No, we would not -- the valuation would likely stand for some little time.

Q I would like also to refer to Case No. 357, at page 3 of that report, the appraiser says, "The property consists . . . . $100.00." Now he places a value on that of $304.00 and you

reduced that to $300.00. Have you any particular explanation with regard to that one, Mr. Barnet?

MR. HUNTER: What is the purpose of this, to prove that those prices were conservative? It is already admitted by the witness. If he has some other purpose, I have no objection, but if that is the purpose, I think we have had enough.

THE COMMISSIONER: What have you to say, Mr. Barnet?

A I agree that our valuation could be termed conservative here. I am in agreement with the appraiser. I happen to know this location up there and know that school is over on one corner and there is a little store on the other one, and there are a number of other houses around there, and at that time, whether there was going to be any demand for further or more concentrated settlement, was the question.

MR. McMASTER: Q: Well am I correct that you disregarded -- you and your appraiser disregarded the potentialities of that property, Mr. Barnet?

A Oh, I think with the development in there we had pretty well taken in the potentialities in the price put on the land at that time.

Q Despite the fact your appraiser is of the opinion that--

THE COMMISSIONER: Surely that is a matter for argument.

MR. McMASTER: Very well.

Q Now, Mr. Barnet, on those farm appraisal reports with respect to the buildings on the farms, there appears a phrase "total present day value".

Will you explain to the Commissioner what is meant by the present day values of the buildings?

THE COMMISSIONER: Total present day values.

MR. McMASTER: It is the total of values, I take it, my lord.

THE COMMISSIONER: Oh, I see.

MR. McMASTER: Yes.

THE WITNESS: That is the replacement value of the buildings less depreciation.

Q That is the depreciation and repairs or just less depreciation? A: Less depreciation and estimating his depreciation would take into consideration the state of repair of the building.

Q How did you and your appraisers arrive at the present day value?

MR. HUNTER: My lord, I object to that question. It would be entirely hearsay if he were to say how the appraiser arrived at it.

THE COMMISSIONER: Is it not a matter you should pursue with the appraiser?

MR. McMASTER: Q: Let me put it this way: Did you give your appraisers any instructions as to how they would arrive at present day values?

MR. HUNTER: Surely we have exhausted the instructions that were given.

MR. McMASTER: My lord, they seem very general to me.

THE COMMISSIONER: That is a matter of comment later on.

MR. McMASTER: Very well.

THE COMMISSIONER: There is no suggestion that he gave any instructions regarding present day value. He said he expected them to apply the fair market value. That was his idea of it.

MR. McMASTER: Q: Now with regard to the form, Mr. Barnet, what is the meaning of the phrase underneath the total value of the buildings "add to the farm"?

A The appraiser after appraising his land and after arriving at what he would consider the present day value of the buildings would then give the matter further consideration and would try to arrive at an opinion as to what he thought those buildings would add to the selling value of the farm to an ordinary purchaser.

THE COMMISSIONER: I understood that he meant that if the building was much too good for a small farm, he placed a value upon it equivalent to what a building suitable for that particular farm would cost. Is that right?

A Yes, or there might be buildings on there that in his opinion were surplus to requirements or types of buildings that were obsolete and would no longer be needed for the type of farm that the average person would want to conduct on the property.

Q In that event, he placed no value upon that particular building at all?

A He might place no value on it or practically salvage value.

MR. McMASTER:
Q I want to refer to certain specific cases with regard to this. I suggest, if we are going to take a recess, we might do it now.

(PROCEEDINGS RESUMED AFTER A SHORT RECESS)

I. T. BARNET, resumed the stand:

MR. McMASTER: Q: Mr. Barnet, before we adjourned we were dealing with the question of the reason why the present day value, or, rather, the reason why the value of the buildings added to the farm differs from the present day value of those buildings. I would like to show you the appraisals filed in Case No. 1013. I would draw your attention to the remarks of the appraisal at page 3, "This place is very welll located" (reading). The appraiser then sets out the various buildings on the lands and puts a present day value of $10,224.00 and reduces that value to $5000.00.

THE COMMISSIONER: What is the file number?

MR. McMASTER: 1013. He puts a total value on these premises including the land at $5,533.00 and you, in putting your value, place the value of $5500.00. Can you explain why in that case the value of the buildings should be cut in two ?

MR. HUNTER: I don't think there is anything in that report suggesting that the value of the buildings has been cut in two, and my learned friend is assuming because of the higher value, which is the replacement value, is there, that one is derived from the other, but there is

nothing on the appraisal to indicate that.

THE COMMISSIONER: Let us have Mr. Barnets explanation of the value of $5500.00 in view of the fact that the buildings appear to have cost more.

THE WITNESS: This is a poultry farm or a farm developed for the carrying of a large flock of poultry. The appraiser points out that in his opinion there is a very inadequate water supply. Now one of the first essentials in developing a large sized poultry plant is to have adequate water at reasonable cost. Otherwise it would happen in this area, and I believe this was up in the Scott Road, a lot of those poultrymen had to haul water and that costs money. So that an average purchaser coming along, wanting to run a poultry plant, who was well informed, would likely shy off this place for this reason , and consider that the water supply was of such a nature that you could not carry that number of poultry with the local supply. Therefore he would feel that there was a surplus with the poultry buildings.

MR. McMASTER: Q: I draw attention to page 3, "The wells, except with the big reservoir in hard pan, go dry in August". Doesn't that suggest he had a reservoir on the premises which did not go dry?

A I doubt it. He does not definitely say that there is a reservoir there.

Q You would be of the opinion that the fact you

have stated would reduce the selling value or those premises with respect to the buildings from their replacement costs less depreciation value, to $5500.00?

A Yes, and furthermore at that time, as I pointed out yesterday, on account of war conditions and general returns from poultry, there were more people going away from poultry farms than there were going into them, because they would make more money working in the war industries. The result would be a lot of those buildings would be surplus to requirements.

Q You said that was the situation in 1942?

A Yes.

Q And in 1943? A: Yes, generally speaking in 1943.

Q I refer you to Case No. 828, Exhibit No. 3, at page 3. The appraiser says, "The property is located on. . . ." (reading). The condition-- the value of the buildings shown there is the total present day value of $4,080.00. The value added to the farm is $2000.00. Can you explain why in that case the values are cut?

A Here again you have got a lot of poultry buildings, and I would say that there are more poultry buildings here than most people would be interested in, and in the opinion of the appraiser he did not think that a buyer would be found who would be prepared to pay their full replacement value.

Q And that was your opinion as well?

A Yes, although I was a little more generous on this case than the appraiser.

Q Are you suggesting that a poultryman would not be interested in premises with as many poultry houses as that on it? A: As a rule the average man will not keep as many poultry -- a one man proposition, as there are buildings for accommodation on that property.

Q I draw attention to the fact of the $4,080.00, $2000.00 is placed on the house, $1000.00 on the poultry buildings, $500.00 is placed on the double-decker poultry -- so that represents $3500.00 of the $4,080.00 -- a thousand dollars replacement value, and it is those buildings mainly that are reduced. Do you agree that that is correct? A: Yes, I imagine it is the poultry buildings that are most reduced.

THE COMMISSIONER: Q: Do you suggest that no reduction has been made in respect to the rest of them?

A There may be some bearing on the value on the rest of them as well.

Q On the basis that it is too good for the land, or what? A: Yes, on the whole.

MR. McMASTER: Q: Mr. Barnet, is it not true that on the plan of acquiring property under the V.L.A. Act it was not intended to acquire properties that required specialized skills?

A Oh, it all depends what you call specialized skills.

Q I refer to Exhibit 59. Mr. Murchison's instructions

to you, Mr. Barnet, in the second last paragraph on the first page, "At the same time it was agreed .. . . (reading)as far as the ordinary veteran is concerned."

Was it with that in view those buildings were so drastically reduced in valuation?

A No.

Q I refer you to Exhibit 2 in Case No. 65, Mr. Barnet. At page 3 the appraiser says, "This property can hardly be classed as a farm as yet . . . . " (reading). The present day value is stated to be $2500.00 and the value added to the farm is $1500.00. Can youexplain why that reduction was made?

A This is a comparatively poor piece of ground apparently. Rolling and heavy clearing with no cleared land on it whatsever, and what you might call certainly a comparatively good house stuck back in the woods, and the people who would be prepared to pay anything like the full replacement value of that house would not likely be attracted to this type of property in that community.

THE COMMISSIONER: It is only a mile and a half out of Mission and Mission has a mill and fairly heavy employment.

A Of course, employment possibilities having increased very decidedly, your Lordship, since those appraisals were made. In the small fruit industry in Mission, prices were low and work possibilities were also lower around Mission.

MR. McMASTER: Q: Your appraisers seemed to have the idea it might be a property which would be attractive to a man who would work out?

A Yes, but he would not likely be in the financial category of paying anything like that full price for that home.

Q Were there not doctors and lawyers and store clerks, and other types of persons employed in and about Mission in 1942?

A Yes, but I have noticed that the doctors and the lawyers -- they usually wanted their properties with a special view, and I don't know that this place has any special view.

Q I refer you to Case No. 372, Exhibit No. 4. The appraiser says at page 3, "The property is located at . . . . better than average dwelling". The house is appraised at $4000.00. Your present day value is stated to be $4000.00; double-decker chicken house $1225.00. Total present day value of the buildings is $5500.00; and the total of the buildings added to the land is $2000.00. The total appraisal is $3,373.00, and you raise that to $3400.00, Mr. Barnet. Can you explain the value added to the farm --

THE COMMISSIONER: What is the file number?

MR. McMASTER: 372.

THE WITNESS: Here we have a new house, apparently all modern conveniences, an expensive house, and I think we are pretty conservative in our valuation here, but I would say that, in my opinion, here the cut has been probably the

heaviest on the house. It was running into so much money and the appraiser likely was doubtful of someone willing to buy that property in that community and prepared to pay the full replacement value of the building.

THE COMMISSIONER: Where is that house situated?

A The Town Line Road.

MR. McMASTER: Near Kennedy, five miles from Westminster on the Town Line Road, a quarter of a mile west or the King George Highway.

A I think it was in a heavily settled area of Japanese. I don't know what the report says on that.

Q The report states the predominant nationality is British and Protestant. I refer to Case 491, Exhibit 2. This property is situated three miles from Mission. The appraiser says that, page 3, "Here we are looking at a highly developed property . . . . (reading)". The present day value placed on the house is $3500.00, the total present day value of the buildings is $4,020.00. The value added to the farm is $1500.00. The total amount given for the property is $2100.00, and you raise that to $2100.00. Now would you explain the drastic reduction in that case?

A Well you will note right away here that he states this man has a family of eight children. With eight children apparently the crops grown on this property are said to be $4000.00. Now the average white man would have to pay a

great deal more/out in the way of labour to operate that property.

THE COMMISSIONER: Q: Either that or have more children? A: Well he may not have all the say in that. Would his wife be willing to work outside if she was raising that family? The average white woman cannot do both the work outside and raise a family properly, so that we figured there that there was too much investment in that house for the average potential white purchaser to pay its full replacement value.

MR. McMASTER: Q: So you cut it down to $1500.00 from $4000.00?

A Yes, of course the house is unfinished and a big house unfinished -- a lot of potential buyers have not the money to finish it ad they don't need a big unfinished house.

Q It was just unfinished upstairs, was it not?

A No, the house is in an unfinished state at the moment, he says.

Q 857. I am going to refer to this case on this aspect. We have read it to you before and you can refresh your memory with the notes of the appraiser on page 3 that it is a very nice holding, well located, and the referenee to the comparable sale. The property is a mile from Hammond. The house is appraised or rather said to have a present day value of $4500.00. The present day value of all the buildings is $4725.00, and it says that the house is one year old, excellent

condition, well finished inside, and he gives the value added to the farm of $2000.00; then underneath that he says, "It is a lovely home, but its true value cannot be shown as a $1500.00 house would do just as well". Can you explain that reduction in value?

A The appraiser here apparently feels that his house is more expensive than likely the average potential buyer would be prepared to pay for it in that location at that time, and therefore he reduces the valuation on it. He did not think the replacement value had relation to its selling value.

Q What is wrong with the location of it, Mr. Barnet?

A It is within a mile of Hammond. I do know that there was a heavy concentration of Japanese settlement right in and around there and whether the appraiser had it in mind or not, I did have it in mind that where there were so many properties in a comparatively small area that a number might move out fairly easily but in setting the fair market value we would have to take into consideration that the supply was likely in excess of the demand and for a time, anyway, it would be more of a buyer's market.

Q I see. You felt in 1942 having regard to the evacuation of the Japanese it was a buyer's market. Is that correct?

A Where you have got a heavy concentration that way of settlement and a big number of families, should the Government decide to sell and being

thrown on the market at once --

Q Then your estimated value is based with respect to those types of properties -- was based on the market being flooded?

A You would have to give it some consideration.

Q And you gave consideration to the fact that the properties might all be thrown on the market at once in making your appraisal of value?

A It would all depend on the policy that the Government would decide on.

Q Did you consider that a possibility in 1942?

A Yes, I considered it a possibility.

Q On what basis, what foundation did you have for that? A: If they should decide to sell, you have to take into consideration the volume of property that was available.

Q Did you know whether they were intending to liquidate those properties when those appraisals were made? A: No.

Q What is meant by a $1500.00 house would do as well? What has that to do with the valuation of the house that is there?

MR. HUNTER: My lord, anything he says on that is an inference. I suggest that he wait until the appraiser comes.

THE COMMISSIONER: I think you had better leave it to the appraiser.

MR. McMASTER: Very well, my lord.

THE COMMISSIONER: On the face of it, he anticipates

it is going to be sold below its value.

MR. McMASTER: Q: Will you agree that there are often farmers from the prairies and other places who wish to purchase small farms in the Fraser Valley for the purpose of retiring?

A Yes.

Q Would you agree that there are often persons working in industry close by and in Westminster or adjacent areas who wish to purchase small farms in the Fraser Valley as homes?

A Yes.

Q were those appraisals made having in mind the possibility of sales to such persons?

A Yes, I would say so.

Q Would that type of person be particularly concerned as to whether the revenue from the growth of crops would provide a $1500.00 house or a $4000.00 house?

A It all depends on what he was looking for.

Q No, what I am getting at is didyou and your appraisers keep in mind the possibility of that type of purchaser who did not have to depend for his livelihood on what he could earn out of the land? A: Yes, I would say we did.

Q And you say that despite the cases I have just shown you? You say this type of purchasers were in your mind when you reviewed the cases that we have just reviewed now?

A Yes, because the majority of that type of purchaser, the prairie farmer, usually has in mind operating

the property as well.

Q Yes, but he is not depending necessarily upon it?

A He may not be depending upon it but he is expecting to get a return from it.

Q I understood you to say before, Mr. Barnet, that you were not interested in the yield from those properties in making those appraisals?

A We may not be but the potential buyer may be taking it into consideration.

Q I thought you were making those appraisals having regard to the potential buyer?

A You cannot always tell what a man may be thinking in his mind as to what he wants the property for.

Q Mr. Barnet, you have been on the Soldier Settlement Board for some time, have you not?

A Yes.

Q And you were aware of the fact that after the first World War the Soldier Settlement Board assisted soldiers in the purchase of farm land?

A Yes.

Q And you knew that the soldiers had paid pretty high prices for those lands after the first World War? A: Yes.

Q And most of your appraisers would be aware of that fact? A: Yes.

Q I suggest to you that would greatly influence your attitude with regard to the appraisals of these lands?

A I don't think it would.

Q Well, did it? A: No.

MR. HUNTER: My lord, I think the thing is confusing. If he is talking about Mr. Barnet's appraisal, Mr. Barnet did not make any appraisal. If he is talking about the appraisals, I think he should wait for them.

MR. McMASTER: Q: You indicated in your evidence this morning, Mr. Barnet, that the field men of the Soldier Settlement Board had been called upon to make appraisals, under the Board's review, under the Farmers Creditors Arrangement Act?

A Yes.

Q And also to review sales that had been previously made by the Soldier Settlement Board?

A Yes, and our re-valuation legislation.

Q Were they also making appraisals for the Canadian Farm Loan Board? A: Yes, some of our men made appraisals for the Canadian Farm Loan Board.

Q Would you agree that the values per acre allowed for cleared and uncleared land in the various municipalities corresponds very closely with the basis of value used by the Canadian Farm Loan Board?

THE COMMISSIONER: You are referring in the first instance to the appraisals made by the Soldier Settlement Board.

MR. McMASTER: Yes.

Q The values placed in those appraisals -- the values placed on cleared and uncleared land in the various municipalities correspond very closely with the values used by the Canadian Farm

Loan Board in their work in 1942.

A Well I don't know what values they were using in 1942.

Q You did not personally have anything to do with them as to their values?

A No, not that I can recall.

Q If your appraisers were making valuations for them, would you not have had occasion to review them in 1941? A: No, we were not making any appraisals at that time for the Canadian Farm Loan Board.

Q When is the last time that your appraiser did make appraisals for the Canadian Farm Loan Board?

A Speaking from memory I think back in 1936.

Q Would you have reviewed the appraisals made then by the Soldier Settlement Board appraisers?

A No, I did not.

THE COMMISSIONER: I am not concerned with matters going back to 1936.

MR. McMASTER: I was just wondering whether they were using those valuations.

Q Do you know how the valuations which were used in those appraisals compared with the valuations that were in use in 1936 by the Canadian Farm Loan Board? A: No, I do not.

Q Now were your inspectors instructed to place any specific value upon fruit plants and bushes, small fruit plants and bushes?

A No, they were not. It was left open but, generally speaking, they did not place nor were they

instructed to place values upon strawberry plants and bush fruits.

Q Were they instructed to disregard this last part on page 3; "give number, age, variety (reading)."

A If they were tree fruits and they considered they added any value, any special value to the land, they would show it.

Q But not small fruits?

A Not as a rule small fruits.

Q Was that pursuant to instructions?

A Yes, generally speaking.

Q What do you mean, generally speaking, Mr. Barnet?

A In that letter of direction from Mr. Murchison, it was considered that any values in strawberries, small fruits, would be problematical.

Q On the other hand, he also states in that letter as to the basis or approach in dealing with those Japanese farms; "It was agreed . . . . (reading)".

A Do you mind reading the whole paragraph?

Q Yes, I know the plants you refer to. Will you answer that question first and I will read the balance? A: Do you mind reading it again?

Q As to the basis or approach in dealing with these Japanese farms, it was agreed that we should endeavour to arrive at those values on a basis of what actually exists on the property rather than in expectation of depreciation which will be brought about by the removal of the Japanese and constant labour shortage to maintain present scale of intensive operations. Did you

instruct your appraisers to place the value on the basis of not taking into consideration any anticipated deterioration?

A I think we felt that type of crop was --

Q Mr. Barnet, would you please answer the question? Did you instruct your appraisers not to take into account any anticipated deterioration of the crop by reason of the evacuation?

A No, I don't think so.

Q Mr. Murchison goes on and says, and this is the part, I take it, you want me to read, "So far as small fruit plantations are concerned, it would seem obvious . . . " (reading). Did you take that to mean in no case was a value to be placed on the small tree plants and bushes?

A Yes, pretty well.

THE COMMISSIONER: Is there any prospect of you finishing, Mr. McMaster, if I give you another ten minutes or so?

MR. McMASTER: I don't think so, my lord.

THE COMMISSIONER: You don't seem to have accomplished very much by your preparation.

MR. McMASTER: I accomplished very much if you could see my notes.

THE COMMISSIONER: Perhaps we better adjourn now; 10 o'clock in the morning.

(PROCEEDINGS ADJOURNED TO 10:00 A.M., DEC. 1st, 1948).

I hereby certify the foregoing to be a true and accurate report of the said proceedings.

Deputy Official Stenographer