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.,
September 20th, 1948,
10:00 A.M. & 2:00 P.M., and
September 21st, 1948,
10:00 A.M.

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

PROCEEDINGS AT HEARING

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The Commissioner.

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APPEARANCES:

J.W.G. HUNTER, Esq., and G. W. McPHERSON, Esq., and J. A. MACDONALD, Esq., and D. BRAIDWOOD, Esq.	appearing for the Dominion Government.
T. G. NORRIS, Esq., K.C.	appearing for Eikichi Kagetsu, and the Deep Bay Logging Company.
R. J. McMASTER, Esq.	appearing for the Co-operative Committee of Japanese-Canadians.
A. G. VIRTUE, Esq.,	appearing for the Southern Alberta Central Committee.

THE COMMISSIONER: I think perhaps it would be as well, gentlemen, to have the appearances announced.

MR. NORRIS: Mr. Commissioner, I appear for the Deep Bay Logging Company and E. Kagetsu.

MR. McMASTER: My lord, I appear, representing the Toronto Committee and claimants, and representing also Mr. Takamada, Mr. Nagai and Mr. Yoshihara.

THE COMMISSIONER: Mr. Virtue?

MR. VIRTUE: I am appearing, sir, reprsenting the majority of the Southern Alberta claimants.

MR. HUNGER: I am representing the Dominion Government,my lord.

MR. McPHERSON: I am representing the Dominion Government, my lord.

MR. BRAIDWOOD: I am representing the Dominion Government, my lord.

MR. MACDONALD: I appear also,my lord, for the Dominion Government.

THE COMMISSIONER: How do you propose to proceed, gentlemen?

MR. HUNGER: My lord, my learned friend has a few things to raise first.

MR. McMASTER: My lord, before we proceed I would ask leave to speak to two or three things. I spoke to Mr. McPherson about three corporate claims, and I am afraid he will have to provide with the exact names,but one is the Ocean Fisheries, Limited, on the list for Toronto, and another

one is the Number 1 District Fishermen's Association, where the principal shareholder resides in Guelph, Ontario, and the third one is the Manitoba River Fish Company , Limited.

We have discussed those claims and decided that they could be handled in the ordinary course, and we have agreed between ourselves , subjedt to your lordship's wishes, that they should be heard in Toronto and Winnipeg.

THE COMMISSIONER: That is, before the sub-Commissions?

MR. McMASTER: Yes, my lord.

THE COMMISSIONER: Is that satisfactory to you, Mr. Mc Pherson?

MR. McPHERSON: Yes, my lord.

MR. NORRIS: Mr. Commissioner, in regard to the Deep Bay and the Kagetsu claims, I understand you will be hearing evidence and there is a certain amount of criss-crossing of the evidence, but on this matter of general evidence there is a great deal of general evidence, of course, which won't affect those claims at all and I don't suppose it would be reasonable to expect counsel to be here in attendance constantly, and I am asking, perhaps, that Mr. Mc Pherson might give me an idea of what general evidence will be adduced which might affect the claims of Kagetsu and the Deep Bay Company.

THE COMMISSIONER: There is no reason for you to be here all through, Mr. Norris. I understand the general evidence will likely occupy our time

for several weeks.

MR. NORRIS: Yes. Another thing, my lord, is this, I am going to Victoria tonight and Mr. McPherson has suggested that when I come back perhaps we could get together and discuss boiling these claims down and also discuss the time appearing and so on, subject to your lordship's approval.

THE COMMISSIONER: Could I have some general idea from Mr. Hunter as to how long he expects the general evidence relating peculiarly to individual claims is likely to occupy?

MR. HUNTER: Subject to the cross-examination, or perhaps I should say with the cross-examination of Mr. McMaster and Mr. Virtue, I cansider it will likely last fourteen days, which is approximately three calendar weeks.

THE COMMISSIONER: That will be some guide to counsel who are appearing in the ~~proper~~ removal claims, because until such time as we complete the general evidence relating to individual claims, they need not bother being here. I would ask Mr. McPherson to advise counsel and post them in good time as to any matter that is likely to be introduced in which they might be interested.

MR. McPHERSON: Yes, my lord. I have written letters to all counsel engaged in the corporate cases and mailed them last week. They should have them by this morning, anyway, in which I advised that the corporate claims will start on the 11th of October, as suggested by yourself, my lord,

and for Mr. Norris's information the DeepBay Logging case cannot possibly be reached before the first day of November.

The general evidence I intend to introduce on corporate claims, as I understand it from Mr. Hunter, will be possibly two weeks from this coming Wednesday, and I estimate that would occupy perhaps one day. I have advised counsel I may be calling two witnesses only, Mr. Shears and Mr. Frederick Field, and if by any chance I want to call more, he won't hold me to it providing I advise him in proper time.

THE COMMISSIONER: That gives me an idea of what we may expect.

MR. NORRIS: Yes. Then,may I retire, my lord?

THE COMMISSIONER: Before you withdraw, Mr. Norris, I want it clearly understood that once we start on the corporate claims I want to go through them without any breaks, if it is possible to avoid them.

MR. NORRIS: I would certainly co-operate to the full in that regard, but might I reserve the right to discuss that further,because my client will be out here shortly.

THE COMMISSIONER: I appreciate your difficulties, but I want you to be sympathetic to mine. I have quite a task before me, and when I start on the corporation claims I will be most anxious to go through them.

MR. McMASTER: My lord, I would like to advise the

Commission with regard to the claim of Gihyoe Takahashi, whose claim was heard at Kamloops-- I am sorry, I haven't the claim number of that case, who is making his personal claim, it was intimated when he was making his claim that he might be applying to add to his claim in respect of the boat "Loyal Chinook". It wasn't dealt with at that time because, acting as counsel for him at that time, I felt there wasn't adequate information from the Custodian's office and there was to be added information provided from his file. I have given my friend a letter to that effect and the suggestion from Kamloops was that Takahashi was coming down to give evidence in the United boatworks case, and his evidence to be heard at the same time.

THE COMMISSIONER: Is there any objection, Mr. Hunter?

MR. HUNTER: No, my lord.

THE COMMISSIONER: Then we can go ahead on the understanding that Takahashi can be heard immediately following your presenting the corporate claim.

MR. McMASTER: It would be following, my lord, with respect, the hearing of the Nelson case No. 364 Teiji Morishita.

THE COMMISSIONER: Heard by me?

MR. McMASTER: Heard by yourself, my lord. Leave was given to Morishita and others who were involved in the Ebesuki Company to apply for leave to file a claim on behalf of the partnership, to be heard in Vancouver.

I have just recently had my instructions and I haven't the full details. I would like my learned friend to know, and the Commission to know that we will file a claim and the case will be proceeded with. I think actually the claim was set out in the original claim, the interest in the partnership in a lump sum, without any details.

THE COMMISSIONER: I do not recall it particularly. I have a vague recollection of that having been made. Is that satisfactory to you, Mr. McPherson?

MR. McPHERSON: Yes.

MR. McMASTER: Actually, my lord, I don't suppose it will be a corporation claim, it will be a partnership. I don't know whether my friend will represent the Crown on it.

THE COMMISSIONER: I do not suppose there will be any technical objection or that Mr. Hunter or Mr. McPherson will quarrel about who is to conduct it.

MR. McMASTER: The other thing I would like to speak to, my lord, is on going through my files so far I have found -- and I haven't completed going through all the files in this Province, and I haven't had reports from other counsel -- four cases were not placed on the list by the Secretary of the Commission. I just draw that to your lordship's attention. I don't think we need to deal with it this morning.

THE COMMISSIONER: Let me understand what you mean; four cases in which claims were filed?

MR. McMASTER: Four claims which were filed, and they were not notified about the hearing.

THE COMMISSIONER: They were all overlooked?

MR. McMASTER: Yes, that is correct.

THE COMMISSIONER: I think you should communicate with the Secretary, so as to make sure there are not others.

MR. McMASTER: Yes, I will do that.

THE COMMISSIONER: These, I take it, are claims which were filed in due time?

MR. McMASTER: That is correct, my lord.

THE COMMISSIONER: And yet have not been incorporated in the main list?

MR. McMASTER: Yes, that is right.

THE COMMISSIONER: Is there anything else?

MR. HUNTER: My lord, at this time it is deemed opportune that we should present what might be termed general evidence on behalf of the Dominion Government. The purpose of this is twofold. First of all, it is to prevent repetitive evidence; much of this evidence will pertain to a large number of cases, and insofar as the generality of it is concerned, it is not proposed to adduce it at any subsequent date, and the second purpose is to give a coherent and comprehensive story of the operations of the Custodian's office as they relate to cases of Japanese, or property of Japanese who were evacuated from the

protected area.

It is felt that with a detailed and chronological background, that many points, which might be obscured in individual cases, will appear in their proper perspective and everyone will have a clear understanding of the individual case.

Therefore, what we proposed to do is to have Mr. Shears, the Director of the Custodian's Office, give detailed story of the operations of that office as they relate to such property, and then have one witness come in under the various types of property in the various types of organization in the operation to explain the story, and only the individual evidence of that witness would be necessary.

Unless your lordship has any objection, or further point to raise, I want to call Mr. Shears forthwith.

THE COMMISSIONER: I take it this general evidence you desire shall be made applicable to every individual claim that has been presented before us or will later be presented before the sub-Commission, is that the situation?

MR. HUNTER: Insofar as it is applicable.

THE COMMISSIONER: If it is going to save a lot of time, then it can be done in that general way. I do not think counsel for the Japanese claimants would find any disadvantage in consequence of that being done.

MR. McMASTER: There is only one thing; I think my

friend ought to undertake if in special cases we wish him to recall any witnesses he has called in the general evidence, he would be prepared to do so.

THE COMMISSIONER: Rather than proceed with cross-examination on each particular matter?

MR. McMASTER: On each particular case. I think that might be understood, my lord.

MR.HUNTER: I think we might as well have a very clear understanding on this, my lord, at this time, if we are going into this matter. I am not proposing to have anyone tell me what witnesses shall be called, except your lordship. If your lordship wishes to rule when my learned friend, Mr. McMaster, wishes me to adduce evidence that I must call some person as a witness, that is your lordship's privilege, but I am not proposing to call witnesses at the request of Mr. McMaster. He can call them himself.

THE COMMISSIONER: I did not know I was stepping into a hornet's nest.

MR. McMASTER: I didn't know I was starting one, my lord.

THE COMMISSIONER: We will meet the difficulty when it arises.

MR.HUNTER: Very good.

FRANK GOULD SHEARS, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HUNTER:

Q Mr. Shears, you are Director of the Custodian's

Office inVancouver?

A Yes.

Q When did you become associated with that office?

A In April of 1942.

Q Would you tell the Commission what experience you have had prior to that date which would have fitted you for an administrative position of this type?

A Prior to my coming to Vancouver, for some 30 years I lived in the Province of Manitoba and was associated with two of the largest wholesale fishing exporting firms. Originally, I was an accountant, and for quite a considerable time became manager of the production end of that business, and then went to Winnipeg where for over 15 years I was associated with another executive in the distribution end of that project.

THE COMMISSIONER: Q: Mr. Shears, you may sit down if you wish.

A I think for the time being, your lordship, I will stand.

Q Very well. A: The companies with which I was associated were quite large corporations and I had quite a lot of responsibility in that regard.

I might say that at the outbreak of the war with Germany I was asked to go over to a trust company in Winnipeg, who had been appointed agents for the Custodian in respect of enemy properties of Germany and Italy at that time, and

with what were termed illegal organizations, and I was there, I think, for about a year and then came to Vancouver, and I presume it may have been in consequence of my contact there, but I was asked to go over to the office of the Custodian here in Vancouver, because I hadn't the slightest intention of so doing myself.

Q When was it you first became associated with the office? A: In April, 1942.

MR. HUNTER: Q: When had that office been set up, Mr. Shears?

A It had been set up -- I might put it this way, perhaps -- immediately after Pearl Harbour it was necessary in order to make inquiries regarding enemy assets, assets of corporations where the ownership was in Japan and other enemy interests, that a branch be set up here in Vancouver, and there was what was termed an enemy branch of the Custodian's Office established, I would think, within a day or two after December 7th, 1941.

Q Well now, what I would like you to do, if it is possible, Mr. Shears, so it will speed up this matter is in your own words to give us the history, as comprehensive as possible, of the operations of the Custodian's Office as they relate to property of Japanese who were evacuated from the protected area of British Columbia.

A As I have already indicated, it was in April of 1942 --

MR. McMASTER: My lord, I don't like to interrupt the witness, but I think possibly I should make a statement at this point. I think it is appreciated that a great deal of what Mr. Shears will say will be hearsay evidence, or evidence that he acquired through the process of his position. I don't want to take objection to it all the way through because I realize that is the only way in which his story can come and would only have some bearing on the weight of the evidence at certain points, in any event, and that factor will have to be taken into consideration.

THE COMMISSIONER: I suppose in the meantime the evidence that Mr. Shears is about to give will be purely historical, as to how the organization took hold of its task. I cannot see any harm being done at the moment.

MR. HUNTER: I think most of it will be found to be evidential. After all, we are asking him to tell the story of his connection.

THE COMMISSIONER: Q: Go ahead.

A As I have already indicated it was in April, 1942, that I became associated with the office of the Custodian in Vancouver. I didn't mention the day, which was the first day of April, and the origin of April Fool's Day with its practice of playing tricks and sending people on impossible errands I believe is lost in antiquity, but it has occurred to me many,many times since that day that it was carrying the jest rather far when I began to discover the immensity of the task of the problems I had been introduced to on that fateful day.

I would like to mention to your lordship that when

I became associated with that office Mr. C.L. Drewry was in charge. Mr. C. L. Drewry was with the Norwich Insurance Company and had been loaned by them for the specific purpose of coming to Vancouver.

MR. McMASTER: Q: I am sorry, -- what company?

A The Norwich Union Insurance Company. Mr. Drewry, however, left the organization, I think about June or July of 1942 and at that time Mr. Edgar T. Reid who was an employee of the Ottawa office and who had been in Vancouver together with Mr. Drewry for some months at that time -- in June of 1942 Mr. Edgar T. Reid took charge of the office.

From June 1942 up to the end of the year Mr. Edgar T. Reid remained in charge.

On January 1st, 1943 I was appointed to the position of acting manager of the office and continued in that position until the first of June, 1943, when I undertook my present position, as director of the office.

I think, sir, that it is desirable, perhaps, that I should have stated those facts in that sequence, because it may appear that the responsibilities which fell on my head after that date would be sufficient for one man to carry, perhaps, without having all the responsibility on his hands which did happen prior to my having any executive authority in that office.

I am aware, sir, that this inquiry is in regard to properties belonging to persons of the Japanese race, who were evacuated. I have already

indicated that the office was set up shortly after Pearl Harbour, and I think I should enlarge upon that at this point by saying that it was set up by the counsel to the Custodian at Ottawa, his legal advisor, Mr. C. W. McPherson, who came to Vancouver at that time and sat at the organization. He was not permanently resident in Vancouver. He made periodic trips between Vancouver and Ottawa, and he was the one, who, in the early stages, really did policies which had been laid down by Ottawa, who were then in management of the office.

The government notice of February 7th required male enemy aliens to leave the protected area, but the evacuation section was set up as a result of Order-in-Council P.C. 1486, which extended the authority of the Minister of Justice, giving him authority to require any or all persons to leave the protected area, not only those who previously were described as enemy aliens, and that Order-in-Council was followed two days later, on February 26th, by a government notice which required all persons of the Japanese race -- "Every person of the Japanese race shall leave the protected area forthwith". I might briefly indicate that a protected area had been set up by a previous Order-in-Council. That was one provision of that government notice. The other provision was that every person of the Japanese race should surrender to the Royal Canadian Mounted Police, no, excuse me -- that it should be the duty of every person of the

Japanese race having in his possession or upon his premises any articles mentioned in the preceding paragraph, which referred to motor cars and motor vehicles, cameras, radio transmitters and fire-arms. They were required to deliver them up to an officer or constable of the Royal Canadian Mounted Police. That was February 26th, 1942.

MR. HUNTER: Q: That was filed originally at the beginning of the hearing. Actually, it is really broader than that, I think, Mr. Shears. I think you have boiled it down from what actually happened. It mentions Justices of the Peace, Provincial police, and lastly Royal Canadian Mounted Police.

A It was to implement these requirements and take care of the consequences which would flow from them that Order-in-Council P.C.1665, the 4th of March, 1942, was passed. This, in brief, again, has two effective parts; one was the appointment of the British Columbia Security Commission, whose duty it was to supervise and direct the evacuation from the protected areas of British Columbia of persons of the Japanese race.

As far as the Custodian was concerned, he comes into the picture under that Order-in-Council by clause 12, which recites that as a protective measure only the property situated in any protected area of British Columbia belonging to any person of the Japanese race resident in such area .(Reading Order-in- Council).

At this point, while close co-operation was obtained between the office of the Custodian and

the office of British Columbia Security Commission, it wasn't always possible to take immediate or adequate control, in a physical way, of all those assets which the Japanese who were being evacuated were either turning over to the Custodian or were leaving behind them at the date they were actually being evacuated.

I think, sir, it is only fair to say at this time that that movement, and that task which the Custodian had to undertake was unprecedented in history. There was no background of experience, as far as I know, to guide him or any of his employees. Possibly the closest approach to similarity would be the forcible removal of the Arcadians in the middle of the 18th century from the Maritime Coast of New Brunswick and Nova Scotia. In that case there was no discrimination at all made in regard to those who were to be evacuated. Whether they had taken the oath of allegiance to the British authority, or whether they had refused to do so. That evacuation was just on the premise that in war a necessity knows no law. The trouble, I suppose is that in every age it is usually harder to prove the necessity, and that, of course, is one of the grounds of dispute here in the present circumstances.

THE COMMISSIONER: Q: I think you are wrong there, Mr. Shears. I am not concerned in any way with the policy of evacuation. I have no jurisdiction to deal with the rights or wrongs of that policy.

A Just as a contrast, I might be permitted to say that in that case some six thousand were evacuated, which brings me to the present problem which is related to this inquiry; that the government census of 1941 indicates there were 23,224 persons of the Japanese race resident in Canada, and of that number approximately 22,000 were domiciled in British Columbia, and it is also a fact that something over 40% of that 23,000 were Japanese Nationals, who were persons who had been born in Japan.

MR. HUNTER: Q: Mr. Shears, I wonder if you would just explain how it was that only 6,000 were evacuated? Were there only 6,000 in the protected area?

A Oh, excuse me. When I was saying there were only 6,000 evacuated I was completing my story of the Arcadians, my purpose being that if that was the problem we had a far greater one, in size of numbers.

I think I have already noted that under the provisions of P.C. 1165 property vested under at least two provisos (1) that the Japanese himself turned over to the Custodian his affairs; the second one, whether or not he had turned over his affairs to the Custodian, upon evacuation they vested.

I would like for the purpose of the record to read here and say that in order to facilitate him turning over his affairs to the Custodian the office had prepared what is called a J.P. form, and "J.P. " merely signifies "Japanese Property", and that

form concludes by saying, "I, the undersigned, hereby voluntarily turn over to the Custodian all my property in the protected area as set out above, excepting fishing vessels, deposits of money, shares of stock, debentures, bonds or other securities, if any.

I certify that the above information is true and complete and fully discloses all my property of every description in any protected area in British Columbia and sets forth all my liabilities direct and indirect."

Now, I think sir, it must be conceded that under the heading "Statement of Personal Property Owned", that the Japanese was only specificaly asked to give a brief description and state the location of furniture, fixtures, equipment and machinery, stock-in-trade and personal effects.

This registration, as far as the Custodian's office was concerned, commenced on March 13th, 1942. It began, through a limited extent at the Heather Street Barracks of the R.C.M.P., but the main registrations were carried on at Hastings Park and in a former Japanese owned property on Powell Street. Registration offices were set up at Steveston and Victoria, and in addition to that we had field men sometimes following the itinerary of the office of the British Columbia Security Commission, taking registrations at various places, sometimes as they were even on the point of being evacuated, and it should be noted, I think, that quite a lot of this

registration had to be done through interpreters, or in English, which was sometimes harder to understand.

There is another factor which enters into the picture, I believe, at that time, and that is that the process of evacuation was somewhat prolonged. It was anticipated by those who were handling that matter, according to the information which came to our office, that possibly it would be completed by the end of June. It actually became the end of July, and then later, and it was really, I think, the end of September before the majority of Japanese had actually been evacuated. This has created a problem that we have noticed since, due to the fact that in that interim assets which were often declared and reported to the Custodian were moved by the Japanese to other locations, and in many cases were sold by them. I am not offering any criticism in regard to the Japanese people for so doing. As a matter of fact, it would appear it was the policy of the Custodian at that time to urge them to dispose of as much of their personal chattels as they could possibly do, but the doing so did create further problems when it came to the question of accounting and of identity.

It was on March 10th, 1942 when Dr. Coleman, the under-secretary of State came to Vancouver, and he met with the representative group of trustee companies, some twenty persons being present according to the records, such organizations as the Canadian Credit Mens' Trust Association, the Canada Permanent

Trust Company, Mr. Barrett Lennard, Mr. J. D. Mather, Bell-Irving & Company, J. D. Winter, H. G. Campbell, H.G. Hinton, of Victoria, Coulthard Sutherland & Company of New Westminster, and others. I merely supply those names as a general indication of those present, and the purpose was to secure their help and advice as to who might be appointed to go out and make initial inspections of all this property which was being left under the care of the Custodian.

As a result of that a certain number of what we termed investigators were appointed, and specific instructions were given to those appointees. In brief they were told that their reports should give the information shown as under noted in the order mentioned. In regard to real estate and personal property -- I will read it briefly, not the full sentences, but the meat of it -- the description and location and nature of the property in a general way. To give complete description of land and building. To prepare or confirm an inventory of the contents of the building or other personal property, but the Custodian does not require you to secure verification of the ownership of personal property. They were asked to give particulars of insurance in force, particulars of any liabilities of which they might become aware through conversation or talks with the Japanese owner, and then give their recommendation.

In regard to businesses they were asked to describe the location and the nature of the business, to give full particulars of ownership and again to

give paticulars of insurance, to describe any existing contracts affecting the business, to discuss the prospects of continued operation of the business, referring to results from operations to date, and, finally, to make their recommendations.

A further memorandum was sent to those agents --

MR. McMASTER: My lord, may that document be filed, and counsel provided with copies of it?

THE WITNESS: Could they all be put together?

MR. HUNTER: They can be filed, my lord.

THE COMMISSIONER: I think perhaps it is desirable they be filed as an exhibit.

MR. HUNTER: If we are to start filing general exhibits, my lord, may I suggest we number them as general exhibits.

THE COMMISSIONER: Yes, I think it will avoid confusion. Which is the first one?

Mr. HUNTER: The first one would be the one we filed in Lethbridge . We filed a divesting order covering automobiles divested to the P.C.U. That was filed.

THE COMMISSIONER: Q: You are putting them in later, are you? A. I am putting them in later. I have them.

Q Let us take them in the order you have them now. What is the document you just referred to?

A This is a memorandum, typed. It is just the instructions that were given.

THE COMMISSIONER: That is a memorandum of agents reports, which will be marked as general exhibit No. 1.

(GENERAL EXHIBIT, No. 1)

MR. VIRTUE: Q: Could we have the date of that?

A It doesn't bear any date, and all I can say is it would be almost immediately after March 10th, of 1942.

Further instructions were sent to them. Perhaps I should put them in. All reports should refer to the Custodian's file number. The reports should be dated. All reports should be signed by the agent.

THE COMMISSIONER: Q: This is a memorandum of instructions given to agents?

A This is an additional one. I think perhaps that they could be filed together.

Q Without having it read into the record, you might explain what it says briefly.

A "Where it is found that the owner . . . . .when they are being evacuated" --

MR. HUNTER: Mr. Shears --

THE COMMISSIONER: It is not my intention it should be taken down. I asked Mr. Shaars to outline what the nature of the instructions are, and then it can be filed as Exhibit 2.

MR. HUNTER: Q: Can't you explain the document, Mr. Shears, without reading it in detail?

A "No inventory need be taken by the agent where the owner or his family are still in possession " -- "Agents should advise the owner . . . that the property is now under the protected custody of the Custodian".

THE COMMISSIONER: Do you think there is any necessity of incorporating it in the record, if it is going to be

filed as an exhibit?

MR. HUNTER: I don't think so, my lord.

MR. McMASTER: As long as we are provided with a copy.

MR. HUNTER: There must be a limit to what we can provide, Mr. McMaster. If we are going to provide Mr. McMaster, my lord, with a copy of all our exhibits, he will have to provide us with copies of his. There will have to be some give and take here.

THE COMMISSIONER: It is putting a terrifically heavy burden on the government. I have been faced with this problem all the way through.

MR. McMASTER: My lord, we are dealing with forms, at the moment. Surely there are more copies than one of them.

THE COMMISSIONER: Q: What is the situation, Mr. Shears? Have you extra copies of these forms?

A No, my lord. There are no extra copies.

MR. McMASTER: I haven't even seen these forms before. They certainly should be produced.

THE COMMISSIONER: You have had lots of time to see them. I do not propose to require the government to furnish you with copies of all these documents. It seems to me to throw too great a burden on the government.

THE WITNESS: I think I can finish with this particular document. The other thing was that ,"The agents should encourage the owner . . . . . upon their evacuation".

MR. HUNTER: This is part of Exhibit 1?

THE COMMISSIONER: This is another document. This will

be general exhibit No. 2.

MR. HUNTER: Q: Is that dated?

A No, that is not dated.

THE COMMISSIONER: Q: Can you say approximately when it was issued?

A It would be almost immediately after March 10th, 1942.

(DOCUMENT MARKED GENERAL EXHIBIT No. 2)

THE WITNESS: Now, sir, it was my purpose in order to build up the story to refer very briefly to some of the actual reports that the Custodian received. If it is going to be a question of copying --

MR. HUNTER: Q: I presume these are mentioned to illustrate types of cases rather than specific cases?

A Absolutely. I might say I hold these documents out and I don't know whether the persons concerned have made claims under this Commission or not. I merely hold them for the purpose of indicating the process of administration in those days, because they do have a bearing, I believe, on later events in the office. I can read them slowly so that the meat goes into the record, which I think would be more desirable.

MR. McMASTER: I would like to ask, my lord, if any of those documents refer to cases that have been heard.

THE COMMISSIONER: Mr. Shears has just stated he does not know whether they relate to claims that have been filed or not and his sole purpose in introducing them is to show the policy that was adopted. In this case the document can be marked as an exhibit, and there is no need for it to be incorporated in the record.

THE WITNESS: This is a report from the Canadian Credit Mens Trust. They outline the nature of the real estate and give this report. In some ways I would prefer to speak a little more slowly and give one or two things in it so that the continuity appears on the record.

THE COMMISSIONER: Q: I have made a direction, Mr. Shears, that the document is to be filed as an exhibit, and it is not to be incorporated in the record.

THE WITNESS: The report outlines the particulars of ownership. It says, (Reading).

Q Put that in as a sample report by the agent to the Custodian, following inspection of some evacuees property? A. Yes, sir.

(Reading).

THE COMMISSIONER: That will be exhibit No. 3.

(REPORT MARKED GENERAL EXHIBIT No.3)

THE WITNESS: This is another sample report. (Producing). This came from Harold B. Campbell, chartered accountant. Without reading it entirely he states, (Reading). Would it be desirable for me to mention the Japanese name or not?

THE COMMISSIONER: Q; I think perhaps not. It is clearly understood that these reports are not to be taken as having application to any particular case?

A Yes. (Reading).

THE COMMISSIONER: That will be exhibit No. 4.

(REPORT MARKED GENERAL EXHIBIT No.4)

THE WITNESS: And another report just reading excerpt. (Reading). And then the list then and state they are very old and give some general description of the condition. (Reading).

MR. HUNTER: Q: Who was that from?

A That is also from H. D. Campbell.

(REPORT MARKED GENERAL EXHIBIT No. 5)

THE WITNESS: If I might put in one remark from another agent, in this case an agent in Victoria, Mr. Harold G. Hinton, who describes the real property. (Reading).

THE COMMISSIONER: Q; Whose report is it?

A This is Harold G. Hinton, of George A. Touche & Company, Victoria, (Reading).

(REPORT MARKED GENERAL EXHIBIT No. 6)

THE WITNESS: It was with the help and the guidance which the Custodian received from these initial investigation reports that enabled him to start taking as appropriate action as he possibly could.

In regard to real property the immediate concern was of course, that is to say -- in regard to real property owned by the Japanese, the immediate concern was to make that property revenue bearing. Now, sir, I am aware that this is an administrative matter , and is only incidental to the present Inquiry, but I introduce it because I feel that the administration and the care taken has a bearing eventually upon the value of the property when the question of liquidation is being considered.

Briefly, and for continuity,I would like to say that at this stage various real estate agents were approached, and they were appointed by us to take administrative charge of the particular properties which were assigned to them. Their functions, I would

say, were the usual functions of a real estate agent. They endeavored to find tenants, and to rent the property. We allowed those agents to make repairs, or repairs of a really urgent nature. That agent saw to it that the property was protected by way of fire insurance, and in a general way exercised supervision on behalf of the Custodian, so that the property was being properly administered, and made as revenue bearing as it possibly could be, and I think the approximate number of real estate agents that were employed throughout the protected area would be about 130. It was during the course of this administration that we became aware of the type of property which to a great extent had come under our care. I am not wishing to make any sweeping statement. I am not saying that all properties were inferior. Indeed, there were some really first-class properties, but I am making the statement that as a group the majority of the properties which came under the control and custody of the Custodian were not the most desirable type of real estate property. As a matter of fact, many of them were definitely sub-standard, and it is true that even if it were contemplated bringing those properties up to a better standard, permission could not have been obtained from the City authorities because a regulation or a by-law as the case may be requires that if more than 30% of the assessed value is required to be spent on the property to bring that property up to standard, the City authorities are not prepared to grant a permit for

that property to be so reinstated.

In this connection I recall very vividly a conference which I had and at which Mr. G. W. McPherson was present in the City Hall, in December 1942. One of the aldermen were present, the Building Inspector, the Health Inspector and the legal advisor, and they gave the picture to us of the general defective state of many Japanese properties that had been brought to their attention, electric wiring being defective and plumbing and very defective sanitary conditions. Some of the buildings they said should have been condemned, and some of them they said, emphatically, were going to be placarded as unfit for human habitation.

THE COMMISSIONER: Q; This evidence is pretty definitely of the hearsay character?

A I was present, sir.

THE COMMISSIONER: But you were told by someone else.

MR. McMASTER: It is very general, too, I would say, speaking of property generally being condemned.

THE COMMISSIONER: I presume later we may have some direct evidence as to the number of properties which were condemned in fact.

THE WITNESS: Perhaps my remarks become effective to this extent, that we did arrange with those authorities that when we were able to secure persons who might be interested in the rental of those particular properties, we would refer them to the City authorities, in order that they might work out a satisfactory arrangement between themselves. As I previously

indicated, not for a minute am I saying that all properties fell in that category. As a matter of fact we were able during the time of our administration to acquire something like $650,000 by way of revenues from rental of Japanese real property.

MR. McMASTER: Q: $650,000?

A $650,000. That is an approximate figure.

Q Are you speaking of urban properties?

A No, all properties.

THE COMMISSIONER: Q: And that, I take it, is over a period of some years?

A From 1942, up until the time of the liquidation policy, yes.

Q The adoption of the liquidation policy being when?

A Well, it commenced in 1943 , the middle fo 1943.

Q And was not completed until when?

A Some of it isn't completed yet, but the bulk of it was in the first eighteen months.

I feel I would like to make this statement, that I believe that if that policy had continued with our record of administration with a few exceptions it would have received quite a degree of commendation from Japanese owners. It is certainly a fact that the office of which I was in charge used every endeavor to protect the interests of the Japanese, and make as much revenue for them as we possibly could.

It was the suggestion of liquidation, however, I suppose, that was the stone of stumbling which engendered dissatisfaction with had been previously

not been in evidence as far as the correspondence which came to our office would indicate. The first indication of this policy of liquidation came by the passing of Order-in-Council P.C. 4691, January 19th, 1943. There are other matters referred to in this Order-in-Council, which I will refer to later, but at the present time the Order-in-Council recites that the "Custodian has been vested with the power and responsibility of controlling and managing. . . . . otherwise dispose of such property".

THE COMMISSIONER: Q: What is the date of that Order-in-Council?

A January 19th, 1943. Now while at that time I had no instructions to implement this Order-in-Council, it merely stating that the power was there, I suppose the natural inference would be that liquidation at that time was contemplated. It was in March, on March 8th, 1943 --

THE COMMISSIONER: Has that Order-in-Council been put in previously?

MR. HUNTER: Yes, my lord, they are all in.

THE WITNESS: Yes, I think it was put in previously. It was on March 8th, 1943, that two advisory committees were set up. The terms of reference to both of those committees being to advise the Custodian in respect to the disposal or effective use of properties vested in him on behalf of persons of the Japanese race evacuated under the various Orders-in-Council relating to the evacuation,

and in particular they limited the generality of the foregoing in relation to (a) liquidation by means of sales of particular properties and the prices which should be realized therefrom, (b) sales, the methods to be adopted in appraisals, the manner of offering for sale, and the terms of any contract for sale, (c) the leasing of properties of which it may not be thought advisable to recommend the immediate sale, and the terms of any contract or lease,(d) the reviewing of, and if thought advisable the arbitration of claims now made, or which may hereafter be made, in relation to leases entered into between persons of the Japanese race and lessees from them (e) the disposition of any chattels which should not have been removed from the protected area.

There were two committees which were set up. One was styled the Greater Vancouver committee. The personnel of that committee was the Honourable Mr. Justice Sidney Smith, the Late Mayor, then Alderman Charles Jones and Mr. K. Kimura. I might say that Mr. Kimura resigned in July of 1943. He sat on that committee for approximately four months.

The other advisory committee was termed the Rural Committee, really for a matter of broad distinction, because under the jurisdiction of that committee were not only rural properties but all properties outside of Greater Vancouver, north and West Vancouver and Burnaby. That is to say urban properties in Victoria, Prince Rupert and Nanaimo were

taken care of by what is termed the Rural Advisory committee. The personnel of this committee was comprised of the Chairman, Judge David Whiteside, Mr. D. E. McKenzie, quite an old-time citizen of New Westminster, Mr. Hal Menzies, also a resident of long standing in Haney, Mr. J. J. McLelan. I may say that Mr. McLelan almost immediately resigned and Mr. Yamaga and Mr. Yamaga resigned in May of 1943. After these resignations Mayor William Mott of New Westminster became a member of that advisory committee.

It should be noted that the first meeting which he attended was in November of 1943. Judge David Whiteside died on March 8th, 1947, Mr. G. McKenzie had previously died in October of 1944. Meetings up until the time of Judge David Whiteside's death were held in his Chambers, for the most part, in New Westminster. After that they were held, usually, in the office of Mayor Mott at New Westminster.

The methods of these two advisory committees were not entirely similar. In regard to the Greater Vancouver committee they decided that they would have their own office, they would have their own secretiabiat and I was the only person at their meetings, on occasions -- on certain occasions when I was asked to be present, probably six or eight times. In their case, any advice which I required would be submitted to their secretary in writing, and I would receive their reply, also in that manner. Mr. A. E. McMaster, was the first secretary of that committee , but

wasn't there for, I think, probably more than a month or two, and then a Mr. Durkee became their secretary.

With the Rural Committee, it was Judge Whiteside's desire, as well as the other members of the committee that I should attend their meetings and should present to them in person the problems which they were asked to consider.

Just going back, I might say it was the policy of the Greater Vancouver committee to meet fairly regularly, once a week, although at a later date it was every two weeks.

In regard to the Rural Advisory committee , they met after I had contacted Judge Whiteside and suggested the necessity of meeting, and he then called the meeting, and thirty-six of these meetings were held, and I was at every one of them, and those meetings always lasted two and a half, three hours and sometimes even longer.

From my contacts with both of these committees, I want to testify in regard to the extreme interest and the careful consideration which both of these committees gave to the matters submitted to them. They asked, on occasions , for further information. They indicated, sometimes, that delays were desirable, and I do feel that they have indeed, as far as I have been concerned, been two splendid committees on which I could rely for good advice.

In the case of the Greater Vancouver committee, it astonished me on a great number of occasions the

intimate knowledge which Alderman Jones seemed to have of all city properties. I know for a fact, because I have been with him on some occasions when he actually visited properties on which offers had been made in order to personally satisfy himself, apparently of the present condition of that particular property.

THE COMMISSIONER: Q; Mr. Shears, what influence did the advice of the committee have on the decisions that the Custodian had to make in regard to sale, or no sale, or the prices to be accepted?

A The final decision. I can state that not on one occasion did I ever implement any sale or take any action which was not done with the full knowledge, consent and recommendation of these advisory committees.

Q Is it right to say in each instance you followed the advice given to the Custodian before completing the sales? A. Definitely, without one exception.

THE COMMISSIONER: Perhaps this might be an appropriate time to recess for a short time, if we are having a three-hour session.

THE WITNESS: Could I have one sentence more? I feel in regard to both of those committees the very recital of the names indicates a caliber of advisory committees which were set up in order to guide the Custodian in the administration of a particularly difficult job.

THE COMMISSIONER: I think we will pursue the same

practice as we have followed formerly of having a recess during a 3-hour session for a few moments.

(PROCEEDINGS RESUMED AFTER SHORT RECESS)

FRANK GOULD SHEARS, resumes the stand, testified further as follows:

THE COMMISSIONER: Q: All right, proceed, Mr. Shears.

A I am not able to say just precisely the date upon which I received specific orders to implement the policy of liquidation. I don't appear to have any written correspondence regarding it.

Q No significance attaches to a particular date. Can you say approximately?

A Yes, I can, sir. I was going on to say I was requested by Dr. Coleman to meet him in Winnipeg, and I met him there. I left Vancouver, anyway, on May 4th, 1943. I had already, possibly, over the telephone, been made aware of the fact that liquidation was going to be implemeneted, but very distinctly I remember in the conference that Dr.Coleman had with me at that date that at that time very shortly after there would be a definite offer received from the Director of Veterans' Land Act in regard to a group of properties in the Fraser Valley, but at that particular moment I wasn't to be particularly interested in it because the submission would be made directly to the Advisory Committee.

Q In any case,it was early in 1943 that the sale

policy was introduced.

A Yes, possibly a little before that, but he did stress to me that in implementing that policy it was to be done in an orderly way. He said that the method adopted would have to be beyond any criticism. He stated that not only was it necessary for the Custodian to obtain the fair market price, but it was also necessary that equal opportunity should be given to the general public, and that at all times it would be required of me to conform to the advice of the Advisory Committees which had been set up for the specific purpose of advising the Custodian in regard to these matters, and I would like to say here emphatically that never since that time, by letter, by telephone or by conference of any kind has any pressure, interference, or suggested urgency come to me from the authorities at Ottawa or any of their representatives.

At this point, sir, I would like to review the methods which were adopted in regard to the disposition of real property, and I would like to deal with that matter, apart from just properties which were sold to the Veterans' Land Act, which deal I will refer to later. At this particular time, I am not always in my mind clearly able to define whether some of the ideas which we carried out actually originated by myself or by my office, or whether they were first the suggestion of the Advisory Committees; but in

any case I am emphatic in saying from wherever their origin, they were first of all considered and definitely approved by those Advisory Committees.

In brief, sir, our method of disposition of real property was by public advertisement, by tender, by the use of catalogues, by co-operation with real estate agents, and by the use of qualified appraisers. To enlarge upon that, I would like to produce three advertisements which I would like to have read into the record, if you would so permit me. The size of that advertisement is approximately --

Q There is no need to read the document into the record. They can be filed as exhibits.

A The thing I am interested in, sir, is the continuity of the record.

Q You have heard my direction, Mr. Shears.

A This advertisement states (reading). It will be noted that this advertisement appeared on the 19th June, 1943, tenders to be received by the 19th July, 1943.

MR. McMASTER: Q: Would you state the papers in which it appeared? A: I will come to that in a minute, if you don't mind. Without reading the other advertisements, which were similar, except this advertisement is dated the 1st of September, 1943, the closing date for tenders is the 4th October, 1943, and calls for tenders on parcels of property in Group B and (

of the catalogue to which I have referred.

Another advertisement; this is dated the 30th March, 1944, and calls for tenders on certain properties by the 1st of May, 1944, and another group of properties on the 15th June, 1944.

I may say that in regard to the first advertisement, in any case, I am not sure about the others, I think what the printers describe as a matte was made and this advertisement appeared in a uniform manner in all the papers which were used.

THE COMMISSIONER: Those advertisements will be filed together as Exhibit 7.

THE WITNESS: The newspapers which were used in every case were the Vancouver Daily Province, the Vancouver Sun, the Vancouver News-Herald, the Victoria Times, the Victoria Colonist, the Nanaimo Free Press, the Prince Rupert News, the Westminster Columbian, the Sidney-Saanich Review, the Fraser Valley Record, the Surrey Leader, the Haney Gazette, the Matsqui News, the Abbotsford, Sumas and Matsqui News, the Marpole-Richmond Review, the British Columbian Weekly, the British Columbian Daily, the Cowichan Leader, the West Coast Advocate, the Courtenay-Comox Broadcast, the Comox District Press and the Cranbrook Courier.

MR. HUNTER: Q: Does that mean, Mr. Shears, that the same advertisement went in all the papers, or

these papers were used for the various types of property? A: That advertisement went in all those papers. The suggestion has been made that properties were dumped on the market by the Custodian. I would like it to be noted that from the initial offerings to the properties that were last offered, one full year had elapsed. In that regard, I think I will have to refer to that later.

May I now deal with the catalogues referred to in those advertisements? The first catalogue which was issued contained 15 pages. On the cover it recites that the properties listed in this catalogue are offered for sale, and gives the terms on which they are offered. It mentions Group A consists of those streets in alphabetical order from A to O, and Group B, those streets in alphabetical order from P to Y, and also 1st, 2nd, 3rd and 4th Avenues, and that Group c consists of from 5th Avenue to71st Avenue, and also Burnaby, North and West Vancouver. This catalogue concerned only those properties which were situated in what we term the Greater Vancouver area and which came under the control of the Greater Vancouver Advisory Committee.

On the first page is an exact copy of the advertisement as it appeared in these papers which I have read. That sets out the civic address. It gives the catalogue number and sets out the civic address, a brief legal description, a brief

classification of the property, whether it is a rooming house, a dwelling, a vacant land, a nursery, store, or whatever may be its general classification, and against each property is given the name of a real estate agent and the Custodian's file number. Perhaps these may be filed together.

The second catalogue, which was issued, was for properties in Group B and C and were advertised for sale by tender. B and C were offered together, a total of 293 properties. I should perhaps first say under the first group of properties under A, 167 parcels were offered. Groups B and C consisted of 297 properties. Then at a later date another catalogue was published of a similar nature, this time dealing with those properties which were outside of Greater Vancouver, which was called an additional catalogue, and in this case there is an index, alphabetically, in districts; Alert Bay and Chemainus -- I am just picking out some -- Comox, Courtenay, Cranbrook, Cumberland, Mission, New Westminster, Port Essington, Prince Rupert, Steveston, Victoria.

THE COMMISSIONER: Q: What was done with those catalogues?

A I have two more, and then I will give the whole story.

Q Very well. A: Then there was another issue made in which the unsold properties as at June 1st, 1944, were re-listed, and

still another one on the 15th March, 1946.

By inquiry just yesterday from my accounting departtment to refresh my memory, I find that 12,000 of these catalogues were printed, and we had difficulty in finding these few that I have in my hand.

In regard to the distribution of these catalogues, not only were they available in the office of the Custodian, as the advertisement pointed out, but as the advertisement pointed out also they could be secured from real estate agents. We secured a list of licensed real estate agents for the whole province of British Columbia, and we sent out copies to between 275 and 300 licensed real estate agents in all parts of the province.

Just to perhaps create continuity here, in addition to the properties which were offered in these catalogues, there were other properties which came to our attention from time to time which, even though we knew nothing about them at the time the catalogue was being prepared, there seemed to be some technical reason, clarification of ownership or something of that nature, and the particular property wasn't listed in the catalogue, and I think between 60 and 80 properties were afterwards what we call specially advertised and this is the advertisement. This happens to be dated the 20th of November, 1943, and after reciting that the Secretary of State

is offering and so forth, it lists a number of properties, giving the legal description and civic address and stating that tenders will be received by the undersigned up to a certain date, and that date was always a month -- no, in this case not quite a month. It was published on the 20th November, 1943, and the tenders were called for the 11th of December, 1943.

MR. McMASTER: Q: The dates of those catalogues, please.

A I beg your pardon?

Q The dates the catalogues were published.

A Well, they were published prior to the various callings for tenders.

MR. HUNTER: Perhaps Mr. McMaster might clarify his question. Does he mean distributed or printed?

MR. McMASTER: Q: Whenever they were distributed will do.

A Well, the point being if you take the date of the first advertisement, -- these catalgoues were all in print quite a time before they were distributed and then they were distributed to real estate agents. That is to say, by the time the general public had notice that there were any properties that were available.

Q I took it four and five were referring to properties unsold in 1944. I take it those weren't before the first advertisement?

A Well, to be technical, yes. There are three original catalggues. There was one catalogue for Group A of Greater Vancouver properties,

there was another catalogue for B and C and another one for the additional property. Those others were subsequent ones.

THE COMMISSIONER: Put the catalogues in as Exhibit 8.

(CATALOGUES MARKED GENERAL EXHIBIT NO. 8)

MR. HUNTER: There are five of them.

THE COMMISSIONER: The first of these catalogues refers to a date when tenders will be received, being the 19th of July, 1943. The second one refers to tenders being filed onthe 4th October, 1943, the third tenders on the 15th of June, 1944 -- no, the 1st of May, 1944. That which is marked No. 3 Issue catalogue is dated June 1st, 1944, and the list of unsold properties does not bear any date. Oh yes, it is dated March 15th, 1946. That answers your question, Mr. McMaster.

MR. McMASTER: Not entirely, my lord, but I will get it in cross-examination.

THE COMMISSIONER: And as Exhibit 9, a further copy of an advertisement which is dated the 20th of November, 1943.

(ADVERTISEMENT MARKED GENERAL EXHIBIT NO. 9)

THE WITNESS: Apart from the dates, then, sir, on June 19th, 1943, 167 properties were advertised, date of closing of tenders the 19th of July, 1943. On the 1st of September, 1943, 297 properties were offered, the date for closing tenders the 4th October, 1943. On the 30th March, 1944, 232 properties were advertised for sale, the date for closing tenders the 1st of May, 1944.

Also on the 30th March, 1944, included in the same advertisement, 169 properties were offered for sale, closing date for the tenders the 15th of June, 1944. A total if 865 pardels wer offered for sale through the catalogue, and as I mentioned before, I think approximately 60 or 80 other properties offered by special advertisement, or approximately 950 individual parcels of real estate were offered for sale by the Custodian.

I did intend to check this up, but I think not more than 20 properties are unsold, 8 or 10 being in Port Essington and a few other isolated places.

In view of the fact that real estate agents became involved with us in this arrangement, I have here ssome notes that were made at the time after I returned from a meeting in Vancouver on the 29th of April, 1943, at which time there were gathered together, I think in the Hotel Vancouver where we had the meeting, representatives from A. E.Ausin & Company, P.C. Gibbons, Johnson,Reeve and Watson, Kerr & Kerr, MacAulay, Nicholls & Maitland, Pemberton Realty, Richards, Ackroyd & Gall, H.A. Roberts --

THE COMMISSIONER: Q: Without naming all these real estate agents, can you say whether you selected representative real estate agents, or how did you make their selection? We are not concerned with the names of all these people.

A -- and Mr.A.E. McMaster, the Secretary of the

Advisory Committee, was also present; the purpose being to discuss matters with these agents so as to get uniformity of action, and I outlined to them the fact that order-in-council P.C. 469, now being implemented, that the power had now become authority and it was intention of the Custodian to proceed with liquidation. I advised them in regard to the set-up and the position of the Advisory Committees, made it perfectly plain that the general public would have to be duly advised and given an equal opportunity to make offers. Then it came down to the question of what part these real estate agents could play in the picture, and as I think it can be readily understood, it would be a physical impossibility for the office of the Custodian to interview people who had an idea of making tenders, being able to give them all the information that a prospective purchaser was entitled to receive, so it became perfectly evident and was the recommendation of the greater Vancouver Advisory Committee that against every property in the catalogue there should be put the name of a real estate agent, and we direct him to the named agent, and that the responsibility of that agent was to give out all the necessaryinformation regarding the property, to make arrangements for inspection, and generally to help the public in making tenders on any property in which it was interested.

The matter of commission was discussed and it was agreed that the usual 5% commission would be payable by the Custodian, because in his opinion the normal way in which properties in Vancouver, anyway, are sold is for the owner to pay a commission to the real estate agent who introduces the property for him, and in that connection the question arose at this meeting as to the possibility of some person going to one real estate agent and then to another, or not even going to any real estate agent but put in a tender of his own bat, so to speak, just where would the commission be paid, and the arrangement arrived at was this, that the Custodian would, in every case if a property was sold, pay the commission to the named agent, the assumption being he was the one, even though his client or the person going to him may not have been the successful tenderer, he was the oneperforming all the work and service for the owner of the property, and it was arranged that if there was any possibility of two agents being involved, the Custodian would have no concern in it whatsoever. We would pay the commission to the named agent and they could make their own arrangement, if any, between themselves.

THE COMMISSIONER: Q: I take it theCustodian deducted the commission paid from the purchase price, did he? A: Yes.

Q In the net result, the Japanese owner paid the

commission? A:Yes. As I say, it was discussed, and the point being that the price which was obtained for the property was the net amount which the Custodian received.

In order that there might be uniformity in all sections of the protected area, I took a trip to Victoria and had a meeting on the 31st day of January, 1944, with some 12 representatives of 12 real estate firms in that area, and again set out the general pdicy of the Custodian, and explained to them the type of advertisements that were to be used and the catalogues. The question of commissions and splitting of commissions was again discussed, and after discussion Mr. Hepburn moved and Mr. Mara seconded the motion that Mr. Shanks, President of the Real Estate Board, should suggest to the Custodian the names of two appraisers. Mr. Shears stated that subject to the approval of the Rural Advisory Committee, the appraisers that Mr. Shank might name would be satisfactory. I will come to the question of appraisers almost immediately in specific detail.

MR. HUNTER: Q: What was the date of that meeting again, Mr. Shears? A: The date of that meeting was the 31st day of January, 1944.

I think that is perhaps all I need read from that. In regard to the question ofappraisers -- let me put it this way -- as far as the Greater Vancouver properties were concerned,

Mr.Douglas Reeves of Johnson, Reeves & Watson, was the first appraiser. I am not quite clear whether I suggested his name to the Committee, but I am rather inclined to believe that at this meeting I did, but as I mentioned before, in any case they were strongly in favour of Mr.Douglas Reeves being the appraiser for the Greater Vancouver properties.

THE COMMISSIONER: Q: Shortly put, the appraisers were appointed by the Custodian after having been approved by the Advisory Committee.

A Yes. Mr.Reeves was unable to cope with the work and further recommendations were made by the Advisory Committee. The suggestion was made that Mr. Harvey, who was the Secretary of the Real Estate Board ofVancouver, should be approached, and Mr. Harvey himself should suggest other names,and he did so and Pemberton's and others were names that were submitted to the Advisory committee and approved by them.

MR. McMASTER: Q: Might I have the names?

A D.W. Reeve, A.R. Harvey, W.G. Moore, of Pemberton's, J.R.Reid, F. A. Clayland, E. N. Copping.

MR. HUNTER: Q: Excuse me, Mr. Shears, what about Kerr & Kerr and Mr.Fairhall? When did they come in -- later? A:Yes, later. This is at the time when the initial properties were concerned. As a matter of fact, those others that you named were, I think, approved by the Rural Committee.

That was the method by which the Custodian appointed the appraisers, as far as the Greater Vancouver property was concerned.

The other Committee, my reading of this correspondence will indicate how they appraisers were selected. There is a letter I wrote on the 31st of March, 1944, to Messrs.Coulthard Sutherland & Co. in New Westminster, (reading).

THE COMMISSIONER: Q: Your foresight appears to have been good, Mr. Shears.

A Just to give one or two difficulties, I want the Court to follow the incident in regard to those appraisers and the letters I am reading indicate it. This is a letter I wrote to his Honour Judge David Whiteside on the 11th of April, 1944, (reading).

MR. McMASTER: Q: What was the date of thatletter?

A The date of that letter was the 11th April, 1944.

On the 13th of April, 1944, I wrote to his Honour Judge David Whiteside, Chairman of the Advisory Committee, (reading), and the letter which I wrote to him and all others was almost uniform with the first letter which I wrote.

Then to go a little further afield, a letter of the 15th of April, 1944,written to Alex Gillespie of the firm of Gillespie & Hart, Victoria, (reading).

A similar letter I wrote to E. F. Burton, who was referred to in the letter. There is just one more, which is to W. H. Shortridge in Prince

Rupert, (reading). I suppose those letters should go in.

THE COMMISSIONER: Mr. Shears has read the gist of them into the record. They can be put in if you want them.

MR. McMASTER: I would like them, my lord.

THE COMMISSIONER: All right, put them in. This is a group of letters from the Director of the Custodian's Office to various real estate agents with regard to their appointment as agents.

(LETTERS MARKED GENERAL EXHIBIT NO. 10)

THE WITNESS: As will have been observed at the individual hearings of claims which have so far been held, there is quite a difference in the form of reports which we received from these various appraisers. Both Advisory Committees' viewpoint, however, was that the valuations which these experts were made were on the basis of their qualifications and if some of the appraisal reports were rather sketchy in detail, the Committees considered that the figure which that appraiser had arrived at was a fair appraisal of the market price of that property at that particular time, and that if and when required that particular appraiser from his own notes would be able to enlarge upon it.

I did indicate that these valuations were to be mailed to me in a confidential way, and I can state that apart from myself and my Secretary, they were not known to even any other members of

the staff, and much less the outside public, ~~x~~ until the actual opening of tenders, when the appraisals were used at that particular time -- confidential to me and the Committees. I might say these appraisal reports were sent over to the Committee. It might be asked just what use would I think these Advisory Committees made of the appraisals. The ~~g~~ Greater Vancouver Committee did not always accept the appraised figure as a price at which they would recommend the property for sale. They established what they called a Committee-proposed minimum, briefly the C.P.M. In the majority of cases, that C.P.M. was identical with the appraised valuation, but in quite a number of cases it wasn't so and when it wasn't so, it was always, or perhaps with very few exceptions it was always somewhat higher than the actual appraisal.

The Rural Advisory Committee discussed the matter and figured that having made inquiries and having appointed the particular valuator, they would have to depend on him for his appraisal, There was that difference in the two committees.

With the one committee that sat right here in Vancouver, it had close contact with every property with which they were concerned. As far as the Rural Advisory Committee was concerned, they had to be dependant on appraisers recommended from such people as the real Estate Board of Victoria and they felt that if that particular

appraiser arrived at that price, there was no logic or basis of reason whereby they should even attempt to change that valuation, and in their case they appraiser's price was used as a minimum acceptable price for dealing with any tender.

I might say here that there were times when other appraisals were called for; sometimes for the appraiser to review his own appraisal, but on quite a number of occasions other appraisers to appraise the same property in order to give some clarification or more information to both of these committees on some particular case which was being presented to them.

You will notice that the advertisements called for tenders to be in sealed envelopes. As you can readily imagine, instructions like that are not always carried out. In the main, they were, and when they came into our office they were put in the safe, intact. There were occasions, however, when there was nothing on the envelope to indicate that a tender was inside, in which case it came to my desk to be immediately sealed up and went into our accounting department and remained without any consideration being given to it, as to who it was from or what the amount, even, was. There were initialled tenders, and we moved to differentiate later between a tender and an offer, but those offers which came in as a result of the initial advertisements, at the date of expiry were reviewed in my office or in

the presence, usually, of the legal counsel for the Custodian, together with the Secretary of the Advisory Board. The tenders were open, they were listed and they were related to the appraisals, but no recommendation or anything was done. They were taken away by the Secretary of theBoard, and I heard later in regard to their acceptance or otherwise. Excuse me, I must clarify that. When the tenders were being opened, those tenders which did not at that time come up to the appraisal, or to theCommittee's C.P.M., were immediately rejected, but those tenders which were equal to or above the appraisal listed and went over to the office of the Advisory Committee, and I heard from them later.

MR. HUNTER: Q: Mr. Shears, you referred to the Secretary of the Commission. Youmean the Secretary of the Committee?

A Yes, I am sorry, the Secretary of the Greater Vancouver Advisory Committee and it was Mr. Durkee. Mr. A. E. McMaster had gone long before.

As regards the Rural Advisory Committee, those tenders were opened in my office and a member of the Committee came and sat in while they were opened,and the same procedure was followed in that regard.

This is a statement which I am quite interested should be clearly in the minds of everybody concerned, and I feel that I am justified in having this on record. At various times, even on

the floor of the House, there have been suggestions of sacrifices and of properties being sold at bargain prices. It is a fact in regard to the results of the initial response to the tenders. 870 properties were offered for a sale over a period ofone year. Of those 870 properties, tenders on 455 properties were recieved. That is to say, that initially we only received tenders on 52% of the properties which were advertised and spread over a period of one year, indicating that the general public were not even interested in making a single tender on 48% of the properties that had been widely advertised by catalogues and in the public press.

THE COMMISSIONER: Q: What was your figure?

A 870 properties were advertised for sale over the period of one year, and during that period the initial tenders were on 455 properties. We had considerably more tenders, but there would be cases where two, three, four or five persons would be tendering on the same property, but we only had tenders on 52% of the 870 properties.

By reference to Catalogue 2, when we advertised or called for tenders on Groups B and C, we also listed again the unsold property, and on Group A you will find there were 167 properties in Group A that were still unsold when we advertised for tenders on Groups B and C. I think it is necessary to have the correct picture in regard to this point that I should give three or

four types of --

Q You said 167? A: There are 167 properties in Group A that were not sold, and re-listed in the second catalogue when we called for tenders on Groups B and C.

MR. HUNTER: Q: Is that correct, Mr. Shears? My recollection is there were 167 in Group A altogether.

A Let me see. Oh, I beg your pardon. I am awfully sorry. There were 108 unsold. Thank you, Mr. Hunter. There were 108 unsold. Out of the 870, there were still 108 unsold when we started to advertise the second group.

THE COMMISSIONER: Just before you go on, Mr. Shears, what are counsel's wishes as to the hours we should sit. Would you prefer to adjourn at half-past 12:00 or go on until one o'clock and have a 2-hour session in the afternoon? I am in your hands.

MR. HUNTER: Originally, my lord, we suggested stopping at 12:30 and meeting again at 2:00 o'clock and going on until 4:00.

THE COMMISSIONER: That was in my mind.

MR. HUNTER: I think that would be satisfactory. An hour is a bit too short for lunch, my lord.

THE COMMISSIONER: Very well, We will adjourn then until 2:00 o'clock.

(PROCEEDINGS ADJOURNED UNTIL 2:00 P.M.)

I hereby certify the foregoing to be a true and accurate report of the said proceedings.
J. P. Harrobin
Deputy Official Stenographer

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

(D. F. Christian - sworn as reporter).

FRANK G. SHEARS, resumes stand:

THE COMMISSIONER: Yes, Mr. Shears?

A I referred to the fact that tenders were received on 52% of theproperties. I would like to make one further statement. That doesn't mean that 52% of those original tenders were accepted. I cannot give the exact figure, but I doubt very much whether more than 25% or 30% of the original tenders were acceptable to either of the Advisory Committees.

I wish to submit now three or four types of letters that were sent out to persons tendering in order that it may be clearly indicated the methods adopted by the Custodian in endeavouring to secure a fair market value. The first example will be where four tenders were received. Three of them were immediately rejected, and one was recommended for acceptance; the appraised price being $2800.00 and the recommended price for sale $3,000.00.

MR. McMASTER: Q: As a result of tenders?

A Yes. This letter was written to a firm in Vancouver regarding catalogue 37,and I need only read this letter, (reading letter dated July 27th, 1943). Now, similar letters to that were written to two other firms tendering on the same property; one of them tendering for

$1,850.00 and the other one for $2,710.00. Then there was a letter written to another firm in the city who had put in a tender on this particular property, which reads (reading letter dated August 12, 1943).

Q Is this last letter referring to catalogue 37?

A Yes, they are all to do with 37.

Q And this was a subsequent tender?

A No, these are the four tenders received. Three of them were immediately rejected and one is in the process of being accepted. Of these three -- of these four tenders received, three were rejected and one recommended for acceptance. The appraised price was $2800.00 and the offer was $3,000.00. Before that letter was written on August 12th, that offer would have been submitted to the Greater Vancouver Advisory Committee and I would have received clearance to accept the offer.

(FOUR LETTERS REFERRED TO MARKED EXHIBIT GENERAL 11)

My next example is where three tenders were received but they were all rejected and they were all asked to revise their offers, if they so wished, and the result was that afterwards one was then recommended for acceptance.

THE COMMISSIONER: Q: A fresh offer was made, I presume, was it?

A Yes, a revised offer, (reading letter of July 31st, 1943). A similar letter to that was written

to the other two who tendered. They were all rejected and in each case the suggestion was made that if they wished to make a revised offer, it might be considered at not less than $4200.00.

Q In the event of an unacceptable tender being received, you intimated to the tenderers a figure which would be acceptable?

A A minimum figure which would be acceptable, yes. As a result of those three letters, we only had a reply from one, and this reply was sent, (reading letter August 14, 1943). You will note that we indicated to him that the minimum would be $4250.00, but he offers $4200.00.

Q. Did your policy involve payment in cash in the event an offer was accepted?

A Yes, sir. It was an offer in cash as far as the Greater Vancouver properties were concerned, with very few exceptions. The policy of the Rural Committee was, generally speaking, to have cash, but in some circumstances they agreed to accept a down payment providing that down payment was considered ample to cover any withdrawal of offer or failure to pay the balance, so that the Custodian would be still secured by the equity which remained in the property.

(FOUR LETTERS REFERRED TO MARKED EXHIBIT GENERAL 12)

MR. HUNTER: Q: Did that policy of advising these people that it would be in order to re-tender come in the beginning or later?

A I am clarifying that. It came in right at the

start in regard to persons who had put in a tender, but if a person came to our agent and said, "Well now, I understand this property has not been sold, what is your upset price on it?", we would say, " We have no upset price. If you wish to make an offer, you are entitled to do so." This is as a result of persons tendering on the property and, having tendered, if we have have no tender equal or in excess of them, then the Advisory Committee were prepared to say, "You can reveal to them our C.P.M. on the appraised price," in the case of Rural Committees. This is an example of where no tenders were received but later, after tenders had closed, there was an offer for $1,000.00, the appraised price being $800.00, and in that case our letter reads, (reading letter dated September 10th, 1943).

Q You mean re-appraised?

A No. I think that when Mr. Douglas Reeves was asked to value these properties, there were so many he wasn't able to keep upwith the valuations, and in some cases we had offers where we had no appraisal and in that case we could do nothing until we had an appraisal and submitted it to the Advisory Committee, and also submitted the offer. What happened in this case was, when we did receive the appraisal the price,when I got it, was $800.00, so that appraisal was submitted to the Advisory Committee, together with

the offer for $1,000.00, and I was given authority as far as the Committee was concerned, to accept the offer. Then I wrote a letter to this firm, (reading letter dated September 17th, 1943).

THE COMMISSIONER: Q: In that instance, an appraisal had been made in the interval?

A Yes. There was no appraisal at the time I received the offer and we did nothing until we had the appraisal.

(TWO LETTERS REFERRED TO MARKED EXHIBIT GENERAL 13)

Thisis still another angle. In this case there were no tenders at all, but later we received two offers, one for $1500.00 and one for $1800.00. In this case, again we were waiting for appraisal, and then you will notice the effect when we did get the appraisal. I will read the letter to one of these persons who tendered. (Reading letter dated November 10th, 1943). He offered $1500.00. We had another offer from somebody for $1800.00, and we wrote the same letter. Then, when we got the appraisal, we found the appraisal was $2350.00. So the letters that were written to both of those tenderers was this, (reading letter dated November 30th, 1943). A similar letter was written to the other person who tendered on the property for $1800.00. One of them replied and on the 30th December, 1943, I write, (reading letter dated December 30th, 1943). That is a case where the

tenderer came back and said, "Your price is out of line and my offer should be satisfactory."

MR. McMASTER: Q: And what happened?

A We didn't sell the property at that stage.

(FIVE LETTERS REFERRED TO MARKED EXHIBIT GENERAL 14).

I have just one more, which I think has a slightly different angle. There was originally one tender for $550.00 . It was rejected and nothing further transpired. Then later we had an offer for $900.00 and that was also rejected, but finally we had a revised offer and it was sold at $1300.00, which was the appraised price. (Reading letters dated January 26th, 1944, and 4th February, 1944).

(LETTERS REFERRED TO MARKED EXHIBIT GENERAL 15)

I am putting in these as an indication of what I think are different angles to the acceptance or consideration of tenders.

This will answer the question of Government counsel. This is my own memorandum of a meeting which I held on the 29th May, 1944, at 2:30 P.M., when the following real estate firms were present -- twelve real estate firms: (Reading memo). I may say in this case that I had quite a lot of inquiries from real estate agents about this time. We met them and they said, "We have clients who will buy properties," We said, "Yes, John Jones has a property at such and such a location he will sell for $3,000.00, and William

Smith has got a property, but goodness knows what he wants for it," and their contention was, provided a fair market price could be obtained, that that price should be made known to them, and at this particular time the Advisory Committee decided the price could be disclosed to anyone interested in a property. Up until this time, although we were revealing the upset price, it was only being revealed to persons after they had put in a tender, but now we were prepared to give the general public this price if the property had not been sold, and they contacted our office or a real estate firm and said, "In regard to this property, what is the price?" and the price was told to them. The two angles I have introduced will explain what I think may have appeared difficult to understand -- the considerable number of properties that appeared to be sold exactly at the appraised price.

Before revealing the price, those people sometimes expected a little more, but generally speaking they came back with the appraised price. The Custodian would insert an advertisement advising the general public that there was still unsold properties for sale, and the notice would be placed on every property, and we had a considerable number of notices of this size, about 13 x 15, (reading notice).

MR. VIRTUE: Q: What date were those first used?

A Well, it would be approximately after this meeting

of the 29th May, 1944. I think they were fairly widely used. I wouldn't say that every unsold property bore this, but we had quite a number printed and they were tacked up to the property.

(MINUTES OF MEETING HELD 29th MAY, 1944, MARKED EXHIBIT GENERAL 16)

("FOR SALE" NOTICE MARKED EXHIBIT GENERAL 17).

I think I have outlined fairly well the methods by which the Custodian dealt with the sale of real property, and I could now proceed to another section.

MR. HUNTER: Yes.

THE COMMISSIONER: Would it be simpler from the point of view of counsel to proceed with the cross-examination on the testimony relating to the real estate policy before we get evidence on chattels?

MR. McMASTER: I would prefer to do it all at once.

THE COMMISSIONER: All right. Proceed.

A It is my intention to leave the sale to the Veterans' Land Act to the last, because it was a particular deal different to the sale of these 950 individual properties. So I would like to retrace our steps to that time when we received the report from the Investigating Agent and he made certain recommendations.

THE COMMISSIONER: Q: It is in relation to what type of property?

A Chattels.

MR. McMASTER: Q: Have you left the property that

was dealt with at New Westminster by the Rural Advisory Committee?

A I would say it is all included in the outline I have given.

THE CHAIRMAN: Q: All right. Counsel simply wanted to know how far you had gone.

A Evolving out of the recommendations that might have been made from these original Investigating Agents, we proceeded to do what we could in regard to personal property. Generally speaking, we used the ominous word "chattels". I looked it up in the dictionary and it was described as something moveable, and at the time we found it so and they were, without the shadow of a doubt, most elusive. We sought them here and sought them there and everywhere. We wondered whether they were in storage or had disappeared. As individuals, I think it is true to say we may have had experience on the cleaning up after the change of residence. In this case, the Custodian's problem was to take over the household effects of 22,000 persons; and in some areas such as Powell Street, fishing centres at Steveston, the farming districts in the Valley, as well as segregated places throughout the protected area --

THE COMMISSIONER: Q: Before you get into this feature, can you tell me within what time after the Japanese residents were required to vacate their homes, did the Custodian or anyone on his behalf take physical possession or attempt to

take physical possession of their chattels?

A It was progressive. In some cases it was fairly soon afterwards; in other cases it was a long time. The problem was that it was put upon us within a matter of a few months and the task was beyond doing, even although there was one time when we had a staff of 120, but in many cases there would be quite a lapse between the time the Japanese was evacuated and the time when we were able to take anything in the way of a physical possession.

MR. HUNTER: Q: Could you be a little more precise? Sometimes you were there when they left and other times you didn't get there for months. What do you mean by a little time? I think his lordship would like some idea of what you mean by a little time.

A I would say sometimes we would be there a week after or a month.

Q Was there any time you were there right at the time the Japanese left? Were you listing it as he walked out the door, or beforehand?

A I can only state there may have been times when that occurred, but I don't feel at the moment that I would be prepared to set any number of cases when that occurred.

Q Are you able to state at this time what would be the average length of time?

A I don't know. It could easily be a matter of months. Why I am hesitating in answering is,

after all, I repeat there was such a large number that to take an average wouldn't mean anything, but I would say the average would probably be a matter of months.

Q Would you say that the usual one would be a matter of months? A: Our policy was, as soon as we had information, to acquaint our field men, and as fast as they could go from one place to another they endeavoured to do the work, but there was, I am frank to admit, quite a lapse in time on some cases between the time of evacuation and the time we were able to take physical possession, and this would certainly be so in some segregated or isolated places.

Q Take the Fraser Valley, are you able to say what would be the usual time?

A If it is in order, I would also prefer that that question be asked of perhaps some of the men who had the physical handling of the goods.

Q You are not able to say?

A I wouldn't want to be specific. I do feel I can say that as far as our office and organization was concerned we were not sparing time or effort or expense to endaavour to take proper control of all these goods left in our custody. There is still another thing I think it is desirable to mention, and that is that not once but on a number of occasions I have had the whole of our staff in together and I have said I might not have any concern over any personal attitude they might have

to the Japanese problem, but as far as we were concerned in that office we were the Custodian and it was expected -- I asked them to act in consonance with the task and responsibility which was ours, and I believe that generally speaking it can be said the staff did have that point of view and did all they could on behalf of the Japanese as trustees on their behalf.

THE COMMISSIONER: Q: Are you able to tell me when the first groups of Japanese were required to leave their own homes and go to a concentration area?

A The Interior Housing Settlement?

Q Well, say, to go to Hastings Park, because that was the beginning of the evacuation procedure.

A As I indicated before, I was not there. I would think it would be the 15th to 30th March probably would be the first ones. I do not think I should be specific. It is a question which can be answered by the records. I was not in the office at that time, but I do know that once it started, as I mentioned, it continued right up to the end of September.

Q And when were steps first taken by the Custodian's Office to take physical possession of chattels left behind by people who had been evacuated either to Hastings Park or other concentration areas? A: I can only say just as soon as it was physically possible.

Q That is of no help to me. Can you tell me when that policy was first initiated?

A It was initiated at the start. As soon as the Japanese registered, he turned over his goods.

Q That involved a vesting in you, but what I am referring to you is when was a policy adopted of taking physical possession?

A As far as the Custodian was concerned, he would act on the advice which came to us from the British Columbia Security Commission. That is the organization which was moving the Japanese out, and they would advise us, but there were times when it would appear a Japanese had been evacuated for quite a time.

Q I am not attempting to attribute blame to any one branch or other of the Government service at the time. I am trying to get at the facts.

A I would say we started to take physical possession of Japanese goods in March and onward.

Q Was your staff sufficiently organized at that time to do an effective job of taking physical possession? A: No, sir, it was not.

MR. HUNTER: Could we have that clarified. What do you mean by physical possession? It may be of some importance.

THE COMMISSIONER: I am making a distinction between the vesting which might be adopted with any Custodian officials 100 miles away, and physical possession and actual examination of the goods and some steps being taken to put the goods under the custody of someone representing the Custodian.

I start with this. I know from what I have heard before that there was a time lag between the time numerous of these Japanese were evacuated from their homes and the time when it was physically possible for the Custodian to set up any organization which was even capable of taking physical custody of the goods of an evacuated person. I am trying to ascertain in a very general way how long that interval was.

MR. HUNTER: I am trying to help your lordship, I think.

THE COMMISSIONER: I quite appreciate that.

MR. HUNTER: I want to find out whether you would consider an inventoring within physical possession?

THE COMMISSIONER: I would say so.

MR. HUNTER: Q: Possibly you could say when the inventoring started?

A I would say that if we examined our records we would find that our men, in a number of cases, made their first contacts before the end of March and that it continued in April and right on for a year or more after that. I am sorry. I want to be helpful. My point is --

Q Let us take it this way. Did your field men in March take inventory?

A We had some field men and we built our staff up from that time.

Q Wait a minute. We know it was built up, but in March, 1942, you had field men actually out taking inventory, is that correct?

A I think I would prefer not to give a categorical answer. I could obtain the information. As I say, I wasn't the one.

THE COMMISSIONER: I think we had better leave that, perhaps. I will tell you this, Mr. Shears, that I regard it as a matter of considerable importance as to what time lag there was between the time evacuees were required to leave their premises and the time when anything was done by the Custodian of a character which would be said to be taking physical possession. I know how stupendous a task was given to the Custodian's office and also how difficult it probably was to set up an effective organization, but I would like some information as to what that time lag was.

A Yes, sir.

Q And I appreciate that probably you cannot give it to me now and we will give you an opportunity to do so later.

A Thank you. I can say this. On receiving their H.P. Forms or information from the British Columbia Security Commission that the properties to which we first gave our attention would be chattels which were left in rented property. He was a Japanese, not only owning his house but letting it, and he is evacuated and information comes to us from the Security Commission, or upon his registration, that he has been evacuated. Well, it was that type of cases that were given first to our field men and they went out. And

that brings up the necessity for the Custodian having storage space. If the Japanese owned his own piece of real property, the urgency of moving his chattels wasn't quite so great until the time came when the real estate agent, who was looking after that property, found a tenant, and at that time one of two things generally happened: Either all the goods would be moved to storage, or some arrangement would be made with the incoming tenant for the stoarage of the Japanese goods in the basement of his own home or in the attic or something of that nature. The problem in regard to chattels, I think, can be best set out by my reading this correspondence which we will probably put in as an exhibit, so I will read it right through. Letter dated July 28th, 1942, from the Assistant Commissioner, B.C. Police, (reading). We replied thanking them, and said, (Reading letter dated July 31st, 1942). And the reply came, (reading letter August 12, 1942). And that was done.

MR. HUNTER: Q: When was the man sworn in?

A I can say almost immediately. There was very little time lag. I would say within a matter of a day or two. Then I have a letter of November 25th, 1942, written by Edgar T. Read, (reading). The properties listed at that time were places requiring police protection. All of those properties were being used by the Custodian for storage purposes. I then have an extract from the

Marpole-Richmond Review of March 17,1943, (reading). Then an inter-office memo from one of my staff, dated June 28th, 1943, (reading). Another memo of July 23, 1943, (reading).

THE COMMISSIONER: I suppose you have no objection to evidence of this character going in?

MR. McMASTER: No, not at all.

THE COMMISSIONER: After all, it is simply proving that vandalism occurred and you all know it.

A A letter to Chief Constable McKay dated December 14, 1943, (reading). An inter-office letter of January 22 , 1944, (reading). A letter to Wilson's Night Patrol, dated January 27, 1944, (reading). A memo of September 5, 1944, (reading). Here is a letter received at our office from the Westminster Trust Company dated June 10, 1942, (reading). A letter from E. W. Forward, of Nanaimo, dated July 3, 1942, (reading). A letter from the Chemainus Constable, dated October 8, 1943, (reading). A letter from the R.C.M.P.,dated March 15, 1946, (reading). Memo, a report on general conditions of Japanese property and chattels in the Districts of Maple Ridge and Pitt Meadows dated November 19, 1942, (reading).

I know that the reading of these things may paint somewhat of a black picture, but I am submitting them as evidence that the Custodian was endeavouring to make contacts with the police and responsible persons.

(LETTERS, ETC. REFERRED TO MARKED EXHIBIT GENERAL 18).

The number of storage places which the Custodian used in Vancouver proper was eight; three places in Steveston --

MR. McMASTER: I would like the Vancouver addresses.

A 992 Powell Street, 604 East Cordova, 8757 Selkirk Street, 1672 West-First Avenue, 154 West Fifth Avenue, 715 West Seventh Avenue. At Steveston the main one was the Steveston Japanese Association building. In New Westminster, 120-10th Street, which was the temple building; 318 Boyne Street; 815 Agnes Street.

THE COMMISSIONER: Q: Three places in Westminster?

A Yes, sir. In the Fraser Valley, the Haney Fruit Ranges Association building, Maple Ridge Buddhist Commission, and the Mission Buddhist Temple. At Victoria we had what was called the Willow's Exhibition Ground buildings. Up country, at Port Alberni, Duncan, Cumberland, Nanaimo, Royston, Ucluelet, Chemainus, Campbell River, Prince Rupert, Powell River, Pender Harbour, Salt Spring Islands. There were at least those locations where we had to have storage space to take care of those goods, which we were taking as when and possible for us to do so from the various Japanese homes.

I think it is fair to say here that in quite a number of cases the Japanese, before their evacuation, themselves moved a lot of their effects to some of their own buildings, which I

Have recorded. The question might readily be asked what record was the Custodian making of all these chattels which had been vested in him and left under his control. I think it is true to say that at that time there was no thought of liquidation in the minds of any of the Japanese evacuees. Neither was that thought in the minds of myself or anybody in the office of the Custodian.

Q At what time? A:At the time of the evacuation, March, April, May, June, up to the end of September -- at the time they were being evacuated and these chattels were being considered. The general idea, without doubt, was this: That at the conclusion of hostilities, all these chattels they had left behind would be returned to them. There was a question, I believe, in the minds of these Japanese -- I can frankly say that some of them thought it would not be very long,and we had inferences that it would not always be the allies who were victors. 710 Japanese were interned, not to the Interior Housing but to Anglia. But anyway, whether for a shorter or longer time, the idea in the minds of everybody concerned was that these goods would remain in situ until such time as the Japanese returned. Therefore, I say it was not thought so necessary, even if it had been possible -- and I contend it was not possible -- to take itemized inventories of all the household

effects of these people who were being evacuated. That is to say, here is a box: We felt that we were not particularly interested in what the contents of that box were, because we were taking it as a box and putting it in a certain storage space, and, as I have indicated, we thought eventually that box would be returned to the owner; and details of kitchenutensils and so forth of inventories of that nature were not, generally speaking, taken. There were some general inventories given to us in the early days byagents and we continued from time to time to make inventories. I believe probably the prlbmes in the Fraser Valley were among the most difficult. These properties, for the most part, had been leased by the Japanese themselves to white people and they left their chattels in that place in the name of the white tenant, but these tenants very frequently left without giving any notice, and from time to time we found the tenancy had been changed and we had not been advised. We had our field men and we supplied them with cars, and it was the duty of these field men, as soon as any advice was given regarding the evacuation of any person, as soon as they could number it on their list, to go to those places and endeavour to give it what we called primary protection.

THE COMMISSIONER: Q: How many field men did you have employed? A: In the Fraser Valley, I think it was only six and they had

automobiles.

Q As at what date?

A During these months from March to September, 1942, I am speaking of specifically.

MR. HUNTER: Q: Didn't this go on, this listing?

A Oh, definitely.

Q You mean, you dropped some of the six after that?

A Oh, no. Our staff in the Valley, I think it remained fairly constant at six. We had to have, at other locations, field men.

Q You mentioned the difficulty of accounting for some of these chattels due to vandalism or theft. Was there any other reason why it was difficult?

A I am sorry. What was that?

Q You pointed out it was difficult to handle these chattels due to vandalism and theft.

A Yes.

Q Were those the only difficulties you found, or were there other difficulties?

MR. McMASTER: My friend has asked his question. I don't think he should be permitted to go any further.

THE COMMISSIONER: We have had so much evidence on it, Mr.McMaster,that I have no doubt that what Mr. Hunter has in mind was the nature of the packing, and we have evidence as to how the goods had been packed in some instances.

A We found a variety of conditions. There were a large number of cases there there had been no attempt at packing at all. It appeared as if

the Japanese just moved out and left everything without doing a thing. It is a fact in some cases that even the last meal, which the Japanese apparently had, was left on the table. That, I presume, was due to the quickness with which they were being evacuated; and in cases like that, there would be nothing done. In other places, the goods had been nicely packed up, but in many cases the containers used were put into baskets, not covered.

Q In view of the other evidence I have had before me in specific cases, I take it there was a great variety of packing. Frequently the goods weren't adequately labelled.

A When we went into a person's home, usually they were not tagged at all. In those cases, where the Japanese had moved them to one of their own temples, usually they were tagged. The trouble later came, in view of those letters I have read, that the contents of these boxes would be spread and identification became impossible.

Q Does that finish your chattel comment?

A No, I think I should go further. We did find a considerable amount of used clothing and in regard to that, I think I would just like to read one or two letters. A letter from Thompson & Company, the auctioneers at that time, dated November 1st, 1945, (reading). I am reading that chiefly, because it so happened that in an audit which was being made of our office, the auditors

came upon a disposition of some goods for which no monetary consideration had been given, and I was asked to explain why that had occurred.

MR. McMASTER: Dealing with matters of that nature, I think Thompson and Binnington would have to be called.

THE COMMISSIONER: Yes, I think so. Do you think that is a matter that can be properly covered in general evidence?

MR. HUNTER: I think it has some general significance, my lord; and this is a Commission. We are trying to find out the truth, and Mr. Thompson is dead.

THE COMMISSIONER: Yes, I happen to be aware of that.

MR. HUNTER: It may be difficult if proving it, possibly in the strictest fashion, but if we can get some information which might not be sustained in a Court of law but which still might be of some significance --

THE COMMISSIONER: I will hear it for what it is worth. I quite agree with you that if any particular point is going to be made as to chattels, including clothing, for which claims are made, I will have to have some specific evidence. I will hear it.

A As I say, the auditors pointed out to me that goods had been apparently disposed off without monetary consideration and I wrote this letter to the auditors on June 10th, 1947, (reading). Then a letter from the Canadian United Allied Relief Fund, dated November 2nd, 1945, (reading).

Then there are three other letters, which I don't think it necessary to read.

(SIX LETTERS REFERRED TO MARKED EXHIBIT GENERAL 19)

I may say that the Committee did go with me to Steveston and saw those particular goods. They had also been out on other occasions. I was out on two or three occasions with the late Mayor Jones, inspecting the chattels which were then in storages. I have inspected storages at Vancouver, Steveston, New Westminster, Victoria, Nanaimo, Cumberland, and Alert Bay, and there isn't any doubt in my mind and in the minds of the late Mayor Jones and the other members of the Committee that, generally speaking, the type of goods was of a mediorcre quality.

MR. HUNTER: Q: Before going on with chattels, were all these goods of the Japanese homes left under the control of the Custodian?

A No, not by any means. In numerous cases, they were specifically left with friends or agents. I was trying to get in the general picture of those chattels which did come under our actual care, but in a large number of cases the Japanese made their own arrangements for the storage and safekeeping of their household effects.

THE COMMISSIONER: I think I have indicated in a good many of the chattel claims I have heard previously, that the terms of reference do not leave it open to me to pass any responsibility on to the Custodian in cases where the goods were left

in the care of somebody else.

MR. McMASTER: Where they were in the care of somebody else when they were lost, stolen or destroyed?

THE COMMISSIONER: Yes.

MR. VIRTUE: I think we would like to be heard on that later and distinguish those cases where there was a definite appointment from those where the Japanese, as indicated by Mr. Shears, simply gout out hurriedly from where he was living.

THE COMMISSIONER: Yes, I quite concede that.

A There is another point which I don't know has been mentioned in any of the Commission hearings, which I think should be made here, and that is in regard to all chattels, as far as the Custodian was concerned they were all at all times available for shipment to the Japanese owner. That was definitely the Custodian's decision. I have to qualify that by saying that those Japanese who were in the Interior Housing Settlement, under the control of the Security Commission, the Security Commission felt that generally speaking it was not feasible that the goods should be shipped to them, but outside the housing settlements they could at all times have had their chattels shipped to them, the only proviso being that the cost of freight would be borne by themselves or taken out of funds which the Custodian had in his hands belonging to that particular Japanese.

MR. VIRTUE: I don't like to interrupt, but before you leave that point regarding the storage of goods,

I want to call your lordship's attention in passing to the fact that Mr. Shears, in his evidence this morning, was particular to emphasize that Japanese evacuees were encouraged and urged by the Custodian that wherever it was possible to leave somebody in charge of their property, to leave it.

THE COMMISSIONER: Yes.

A Then in regard to chattels, as in regard to real estate, we came to the time when the question of liquidation was being considered. It was considered by both committees and their decision was that, in view of such factors as storage expense, deterioration of many types of goods held, loss by theft, and the fact that the present time appeared favourable for the disposition of miscellaneous household goods, both of those Advisory Committees recommended the sale.

THE COMMISSIONER: Q: When were those recommendations made, approximately?

A I should have had that date. I think it would be the end of June, 1943 -- May or June, 1943. Just prior to that, the Japanese were advised -- those in the Interior Housing Settlements -- a notice was put up that there was a possibility of liquidation and drawing their attention -- I am reading from The New Canadian of Saturday, June 19, 1943, (reading article marked on page 1).

Q For the record, you and I know what The New Canadian is. It is a Japanese publication circu-

-lated widely among the Japanese.

A Yes. I understand almost every family has this. There is always parts of it printed in English and other parts in Japanese. I ratherfancy, generally speaking, articles of that nature do appear in Japanese. I read again from The New Canadian of July 31st, 1943, (reading article marked on page 1.

(TWO ISSUES OF"THE NEW CANADIAN"REFERRED TO MARKED EXHIBIT GENERAL 20)

MR. VIRTUE: I will ask now that Mr. Shears look up and be ready to produce -- I have forgotten the number of it -- a form letter sent out to the Japanese shortly after that date, refusing to ship goods and suggesting they sell them in view of the fact they had a higher re-sale value.

A The method was by sale by public auction after advertisement.

THE COMMISSIONER: Before going into this phase, I think we might recess for five minutes.

(PROCEEDINGS RESUMED AFTER SHORT RECESS)

THE COMMISSIONER: Yes, Mr. Shears.

A The policy in regard to the disposition of chattels was by advertisement and sale at public auction for the most part. As to the type of advertisement, I will submit this one where W. G. Willard was the auctioneer. I will just read the first part, (reading). In all of these advertisements was a general description of the type of goods which were to be sold. In this

particular case a walnut bedroom suite, four oak desks, two office desks (reading).

MR. McMASTER: Q: Where would it be held?

A 1047 Seymour Street.

THE COMMISSIONER: Q: And what notice was given of these sales?

A In point of time?

Q Yes. A: That was a question that was discussed with the auctioneers and it was their judgment that as far as auction aales were concerned, it was more effective to have the advertisment placed in a day or not more than two days ahead of the auction sale. This particular advertisement was the 9th August and this particular auction started August 10th and continued until August 11th.

Q That advice of the auctioneers was adopted?

A Yes. That came to us from the experience of the auctioneers themselves, who said that putting in an advertisement for an auction a week ahead was not nearly as effection as putting it in a day or two before. I read in part an advertisement put in by Thompson and Binnington, (reading). Then an auction held by C. Spencer Pallot at Haney, November 28th, (reading).

Q That is the outline of the policy generally adopted?

A Yes. I have several auctioneers' names -- J. W. James, at Nanaimo, offering for sale (reading); another one of a larger size held at Ganges, where there wasn't an actual local newspaper and

it was advertised widely by posters. (ADVERTISEMENTS OF AUCTIONS REFERRED TO MAKRED EXHIBIT GENERAL 21).

It was our policy to have present at all those auctions some member of our field staff, or in the outlying places, like over at Nanaimo, -- I don't mean Nanaimo is outlying, but remote from Vancouver -- our agents were responsible for being present or seeing someone was present. I attended some auctions in Vancouver, I think only six or seven, and I didn't stay the whole time, but on those occasions on which I was present, the crowd was good and the competition was quite keen and it appeared to me from my general knowledge that the articles being offered for sale were certainly fetching a fair market price, the ones I saw sold. Some little time ago I had some of my field men report. This is August 11, 1948.

THE COMMISSIONER: Are you calling any of those field men?

MR. HUNTER: Yes, my lord.

THE COMMISSIONER: I think we had better get the evidence as to their observations from them rather than from reports, which will not be subject to cross-examination.

MR. HUNTER: Very good, my lord.

A Something like 260 auctions have been held: 100 in Vancouver, 13 in New Westminster, 43 at Steveston, 20 at Haney, 19 at Mission, 13 at

Surrey, 10 at Abbotsford, 3 at Langley, 7 at Cumberland, 5 at Prince Rupert, 2 at Alert Bay, 1 at Chemainus, 7 at Duncan, 2 on the Main Island, 2 at Nanaimo, 1 at Port Alberni, 2 on Salt Spring Island, 1 at Ucluelet, 3 at Victoria, and 1 on Galiano Island.

THE COMMISSIONER: Q: What time spread was there between those chattel auction sales?

A We made a definite point not to crowd these auctions together. I think the best indication of that might be given in some of these by saying in the case of 992 Powell Street, at which there were 55 auctions held -- I am picking that out because it is the largest number held in Vancouver -- those 55 were held between the 14th October, 1943, and the 21st December, 1945. That is a period of three years and two months in that particular case. In the case of New Westminster, 13 were held between the 5th November, 1943, and the 30th August, 1934. I think I can safely say that there was a definite attempt or realization of spreading these auctions, having one in one district and then another in some district which was somewhat remote and then back to the other area again.

MR. McMASTER: Q: Can I have the addresses where the auctions were held in Vancouver?

A There were two auctions held at 314 Powell St., 55 at 992 Powell Street, one at 210 Powell Street, one at 2696 Trinity Street, 2 at 369 Powell Street, one at 256 Keefer Street, 26 at 1047

Seymour Street, 1 at 301 Powell Street, and 11 at 771 East Hastings. Here again, after advice from the various auctioneers, we were guided by them as to roughly speaking the quantity of goods that should be handled at any one auction, and as far as possible they endeavoured to mix the poor with the good, so as to encourage the general public to come. Those 260 auctions to which I have referred grossed an amount of approximately $260,000.00, and that was the fairly general average. Quite a lot of the auctions were around the $1,000.00 mark. Some of them, of course, were $700.00 or $800.00 and some $1200.00 and $1300.00, but between these two ranges that was about the gross return and the average for the over-all picture is just about $1,000.00 per auction. The usual charge, I understand, if a person has household goods he wishes an auctioneer to dispose of, the auctioneer will take those goods and put in his own advertisement to sell them by auction and make a deduction of 15%.

THE COMMISSIONER: Q: Is that the policy that is adopted here, that the auctioneer paid the advertising? A: No, that was not, and that is why I am introducing this point. It seemed desirable that the Custodian should have some control over the advertising outlining the wording at the top and bottom of the advertisement, and the advertising was paid for by the Custodian, and in view of that fact we had arrangements with

the auctioneer that his fee should be 10% and not 15%; but it is a fact to say that the Custodian not only charged against the goods sold the auctioneer's fee of 10% and what it cost him to advertise, but also we did charge against the auction nothing in the way of administration, but the labour of field men and truckers who moved the goods from storage to the actual auction location, and it works out that something like 21% was the deductions which, on an average, were made from the gross returns of the auctions. I haven't an example here, but I should like to mention that there was a certain type of chattel which was advertised for sale and not sold at public auction, but advertised for sale and tenders were called for. In those cases, the tenders were dealt with in a similar way to tenders on real property and were referred to the Advisory Committees and received the acceptance of the Committees. We did have certain chattels sold by tender.

THE COMMISSIONER: Q: On what basis did you have these sold by tender?

A It was just on the type of goods. It was felt in certain circumstances there was some articles which should not be put up at auction and should be advertised in a special way. I think, as has appeared in some of the hearings, there may have been some items sold at a public auction which some people, at least, may have felt should

have been possibly advertised, but I am endeavouring to indicate the general policy in regard to the disposition of chattels.

THE COMMISSIONER: Q: When you did in certain cases elect to sell goods by tender in preference to auction, what was your reason?

A There may have been places where there was a large piece of machinery or some type of article which, to put up the pots and pans and crockery, would seem rather incongruous, and it was felt that probably the best way to get a better price would be to make a special advertisement for those things which didn't fall within the usual type of household goods. It was done, when it was done, with the deliberate intention of securing the best price for that particular article.

Q Who made the decision as to whether the sale ought to be by tender or auction?

A Generally speaking, that was made the responsibility of the Custodian, and as I indicated, it did come to my attention in some cases that things had been sold at auction that perhaps shouldn't have been. I have to admit that.

MR. HUNTER: Q: Were you advised on that by the auctioneer, or did you just on your own initiative and guided by your own experience, decide what was to be sold by auction and tender?

A I don't want to lay blame on anyone else, but I had a large number of problems to look after and he had a sizeable staff and a certain

responsibility was left to my department for arranging these auctions and carrying out the policy of the Custodian, and I didn't have the complete knowledge at the time of just what articles were being advertised for sale.

Q Shortly, the decision was frequently made by the Department official who had chattels, for example, under his care?

A Yes, it was an employee of our office.

MR. HUNTER: Q: Were any rules laid down as to whether a thing would be sold by one method or another?

A Yes, just whether after using good judgment a better price could be obtained by selling at auction or advertising and calling for tenders. That is the only reason we had in mind.

Q Wasn't there another method of selling you used occasionally? A : There was another method which occurred in a limited number of cases. The Japanese, as I think I mentioned before, especially in theValley, sometimes had leased the property to a white person and they had also, in many cases, leased the chattels to that particular tenant, and when the policy of liquidation of chattels came into effect, the Advisory Committees took the stand "Here is a tenant in possession of certain chattels which are really necessary for him to carry on the operations of that particular farm." I am not speaking of large implements, but some of the relatively small implements around the

farm and even the stove in the building. The Advisory Committee took the attitude that if the Custodian was going to sell those goods, it would certainly not be the right thing to go into that tenant's house, who had goods under lease, and carry out his stove and take away his tools; the possibility being that that tenant, even if he went to the auction, might not be the successful purchaser and the tenant would be left in a rather difficult position. In any event, the two Advisory Committees decided that and it was left somewhat to the judgment of the Custodian's Office that certain goods which could be considered essential to carrying on the operations might be sold to the tenants at an appraised price, and in those cases an appraiser went and inspected the property and reported that in his judgment these goods, if sold at auction, would net so much, and that was the idea of the value, and in those cases the tenant had the option of buying the goods at the appraised price.

Q You were at some of these auctions and I presume you were at some of these warehouses, these storage places?

A Yes.

Q And you saw these goods?

A Yes.

Q Are you able to express an opinion as to the general character of the goods?

A I am, and there isn't any doubt that the type of

goods in a general way which the Custodian had to handle was really appalling; and the difficulty is this, that the description of the article could convey to the mind no accurate idea what the article actually was. You could only list it as a chest of drawers or a bureau, or something, but the article itself, when you looked at it, would be almost, to my mind, in many cases valueless. As I say, I am not indicating there was not good furniture, but I am very positive and definite in saying that in my mind and in the minds of the late Mayor Jones, when he went with me, and other members of the Committee, that by and large the quality of the large percentage of the goods we had to sell was of a most inferior quality.

THE COMMISSIONER: Q: Is that everything?

A Yes, I think so in regard to chattels. It was a problem, as I think you can understand. There were still some other difficulties which occurred. Here again, not in every case, and I am not attempting to lay blame particularly, but the Japanese themselves -- certain numbers of them, anyway -- were not as co-operative as they might have been. They might have had reasons; but we have had cases where their chattels were deliberately hidden and the problem from start to finish --

THE COMMISSIONER: I am not greatly concerned here, in a general way, with the hiding of goods, am I,

I think that is a matter that might come out in a particular case. We have had some evidence of it in claims I have heard.

Is there anything further you want from Mr. Shears?

MR. HUNTER: No, not in connection with the general chattels. As it is now 4 o'clock, I would suggest we adjourn until 10 o'clock tomorrow morning.

THE COMMISSIONER: Would you give me some indication of what we are faced with in the morning. Have you some further examination of Mr. Shears?

MR. HUNTER: Yes,my lord-- nets, fishing vessels, etc.

THE COMMISSIONER: And I fancy that Mr. McMaster will occupy most of the rest of the day.

MR. McMASTER: I imagine so, my lord.

THE COMMISSIONER: Very well.

(HEARING ADJOURNED AT 4:00 P.M. UNTIL 10:00 A.M. TUESDAY, SEPTEMBER 21st, 1948).

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

Deputy Official Stenographer

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)
(Mrs. E. Blygh sworn as Stenographer)

MR. HUNTER: My lord, I will carry on with Mr. Shears.

MR. McMASTER: My lord, my learned friend Mr. A. Brewin is with us this morning.

THE CHAIRMAN: I am glad to see you out here, Mr. Brewin.

FRANK G. SHEARS resumes stand:

MR. HUNTER: Carry on, Mr. Shears.

A Besides the liquidation of real property, and the type of chattels to which I referred yesterday, before the policy of orderly liquidation was introduced, it was necessary for the Custodian to deal with certain types of personal property which, because of their very nature, had to be dealt with as expeditiously as possible. I am referring to anything in the way of perishable commodities; and it was the policy of the Custodian, right from the very inception of office, to deal with those things and liquidate them, and to sell them if it appeared to be desirable.

Quite a number of the Japanese population, for example, had fruit stores; and it was the policy for the Custodian to urge those Japanese to make a disposition of their business, or of their personal effects prior to their actual evacuation; and in a large number of cases, this was actually done; but, if it were not done before the Japanese was evacuated, the Custodian stepped in. He advertised those effects for sale, and they were sold on the basis of acceptable offers, even although

there was no overall policy of liquidation.

THE CHAIRMAN: I do not recall any claim arising in connection with the sale of perishables. None came before me that I can recall.

MR. McMASTER: There may be some, my lord, but I don't think we had any fruit stores.

THE CHAIRMAN: We had grocery stores, but it was not based on any peculiarity the way stock-in-trade was in. However, go ahead, Mr. Shears and give us your views on it.

A In that class that the Custodian termed "perishables", there were such effects as fishing netting, and it is in regard to that that I would like to deal just now.

The Custodian felt that fishing netting fell into that class of perishables, because of the extreme and continued care that fish netting requires. There was a large quantity of fish netting, as will be understood, in view of the fact that quite a proportion of the Japanese population were fishermen, and a large number of them were residing in Steveston.

The handling of fish netting, or dealing with fish netting, right from the start, was quite a difficult problem. In the first place, even the article itself was unusual. It was--

THE CHAIRMAN: You will have some competition here for a moment--yes, all right.

A The description of fish netting, even, is particularly technical: such things as the size of the mesh, and the thread, and the number of ply in the thread, and

besides its depth and length.

A fair market value of a used net is difficult to ascertain, and I think I can say this, sir, out of the experience I had, to which I referred yesterday, in regard to the lake netting--I know it is not the same as the netting used on the Pacific Coast, but there are certain things which are the same. The quality, even, of a new net can vary, very considerably, from season to season. The quality of a new net, in the first instance, will depend on the particular flax crop or cotton crop from which it was manufactured, and one of the great difficulties of standard netting companies is not being able to maintain a uniform quality.

My purpose in mentioning this is a new net, when it reaches its second or third year, will largely depend on its value ~~of~~ when it was a new net. That is the first thing.

And in the second instance, the value of the a second-hand net, or a used net, in its third year, will largely be dependent on the use it had in its first year. I know it is possible for some fishermen to have nets, which, by extra care, they can use two, three and even more seasons; but it is also a fact that there are some fisherman who can use up the life of a new net in one year. The problem is--

THE CHAIRMAN: It is a matter of the degree of care which has been given to it?

A Yes, which has been given to it.

My point in introducing this is it is extremely difficult in examining a used net to be able to evaluate--perhaps that is not the proper word--to be able to decide or know what care it has previously had.

It is possible to have two used nets, which appear to be somewhat similar, and one used net may have a considerable life left in it, and the other will go to pieces almost as soon as the fisherman puts it in the water. It depends, sir, upon the care which the fisherman gave to it, by washing the net thoroughly that year, by the use of bluestone,--and some used gum and japonica, and other preservatives--but the bluestoning of the net, in itself is not all that has to be done. It has to be done at a time when it should be done, and bluestoning it at a particular time, when it should have been bluestoned earlier, will not have the same effect. I am saying this, sir, because fish netting requires constant care, or there will be rapid deterioration and the market value of used nets cannot very precisely be determined.

In the J.P. form, when fishermen declared their nets, their declaration was often very inadequate. They would probably say five nets--five salmon nets. In some cases, they might go into a little more detail, but generally speaking, the recording of their fishing net was in general terms.

It is also true to say that in the majority of cases, the declaration stated that their fish netting

had been left in some company cannery house, and as you know, sir, there are a large number of cannery companies in this area. Those nets which were left by the Japanese in those company cannery houses had usually been tagged, I presume by the owner, with his name. Sometimes his name was written in English, and in some cases, it was in Japanese, and in some cases, it was in both, and there was usually a price put upon it on the tag. That was the situation at the time we received their registration forms.

Our first attempt in dealing with this particular problem was on May 1st, 1942, when the then manager, Mr. C. L. Drury contacted the secretary of the Fishermen's Institute; and the purpose was to advise him that we were endeavouring to arrange a reasonable basis for the disposal of fish nets owned by Japanese, who had been evacuated, or would be evacuated.

In those cases, we informed the Institute that the nets were at present stored with various canning companies; and Mr. Drury stated that he believed those companies would provide us (the Custodians) with an inventory of the nets, giving us the names of the owners, the style and the history; and no doubt each company would be willing to buy the nets in storage.

I can only say, sir, that that was a fond hope, upon the part of Mr. Drury, because we never did receive any precise inventories from any of the

canning companies.

THE CHAIRMAN: What was this institution you consulted? Was that a Japanese organization?

A No sir, it was not. It was really an institution, I find, composed of the various canning and packing companies; but the point was theCustodian, at that time, felt that he should not approach any particular individual canning company, and in approaching their Association, it was probably a right thing to do.

Q Well, I suppose there was no Japanese Fisherman's organization in existence at that time. The membership had all been moved?

A That would be true, sir. I was stating we did not receive any precise inventories. A little later on, I will introduce some records that we were able to obtain from one particular canning company.

Mr. Drury went on to advise the secretary that the difficulty arose in that values placed by the Japanese appeared to be considerably in excess of values as given by certain canning companies.

Of course I appreciate there that perhaps you have some interested parties who are putting a price on a net, but the fact anyway is that we were informed not from one source, but in a very general way--in a very wide manner--that the prices which were put upon these nets were, in many cases, somewhat higher than what was considered the fair market value at that particular time.

MR. McMASTER: Does Mr. Drury mention the names of any

of those canning companies?

A It will be indicated later who was approached, yes.

Mr. Drury went on, having made that statement:

> "Therefore, in the interests of all concerned, we think it necessary to obtain an independent valuation, and we would like to have your recommendations regarding this. It has been suggested that in each district an experienced net man be nominated, accompanied by a representative of one of the principal net suppliers, might assess the value at each cannery."

And Mr. Drury stated he was unwilling to approach any individual canning company.

Mr. Drury also advised that Institute where Japanese property is liquidated by sale, the usual procedure is to offer the property to the public by advertisement, inviting tenders, but he states it would be impractical to so advertise, until such time as the individual nets had been appraised.

That was, as I say, the first attempt at grappling with the problem on the basis that the nets in any case had to be sold.

There was a brief acknowledgment of that letter on May 4th, and then, on May 7th, a reply that came from the Institute.

Mr. Drury stated he had been directed to reply as follows to the communication of May 1st:

> "A large number of fishing nets and other supplies have been left by the Japanese at their own risk on the properties of the

packing companies."

THE CHAIRMAN: This letter is from whom, to whom?

A This is from the secretary of the Fisherman's Institute to Mr. Drury, who was then manager at that particular time.

Q The Institute was an employer's organization, was it?

A Yes, yes.

Q That is to say, employers engaged in the fishing industry? A. Yes.

"The Companies are informed as to the prospective sale and they don't possess inventories of the nets and supplies in question."

That is, this secretary is making the statement that the companies (and there were quite a number involved) that they did not possess inventories of the nets in question.

"It is understood that the nets are tagged with the names of owners, and the values placed on them by owners, but so far as is known, there is no history."

And I would like to draw attention to that very word "history". The only construction I can put on it is that very thing I tried to outline in my opening remarks--unless you know the history of the nets, or who the owner is--

THE CHAIRMAN: Don't you think we had better get the evidence of a net expert, rather than receive your interpretation, and get an expert's opinion on it?

A Yes, I think that is desirable. I have some knowledge, but I think that is the correct thing to do.

Q Anyway, your organization endeavoured to get expert advice as to how these things should be handled?

A That was the purpose.

"The companies cannot undertake to buy the nets that have been left on their property, except as and when needed for use. They recommend that the nets and other supplies be taken to a storage depot in Vancouver and made available for inspection by buyers.

The foregoing applies particularly to the Fraser River area. The company urges removal of Japanese nets and supplies at an early date because of the urgent need of space for other uses."

The Custodian was faced with this problem at that time. He was asked by this organization, or by these companies, to remove the nets.

MR. McMASTER: What is the date of that letter?

A The date of this letter is May 7th, 1942.

I may say at the moment, although I will give you it a little later--we did not remove them. To remove the quantity of nets that were involved in this various number of canning houses, it was impossible to find adequate space that the Custodian could secure.

With regard to space required for fish netting,

it is not only the size of the floor space, but it is very dependent on the height, and the strength of the roof and the beams, because these nets, many of them of considerable weight, have to be hung individually. There has to be, or should be, considerable space between each net, so that there can be a free circulation of air, and therefore the storage space involved to take care of that quantity of nets was, as I say, more than the Custodian, anyway, was able to supply.

MR. HUNTER: Would your lordship like those letters to go in.

THE CHAIRMAN: Very well, but I may tell you I do not propose to read all these things, but you may have them for cross-examination.

THE SECRETARY: It will be No. 22.

(LETTERS MARKED GENERAL EXHIBIT NO. 22)

MR. HUNTER: Q: What is the name of that Association--the Canadian Fishermen's?

A It is the Fishermen--I think it is Canadian Fishermen's Association.

MR. HUNTER: The Fishermen's Institute of British Columbia?

THE WITNESS: Some reference was made in that correspondence to an appraisal, and somewhere about this time the Custodian contacted Mr. C. P. Leckie. Mr. C. P. Leckie was of the firm of C. P. Leckie & Company, and their stationery heading indicates them as importers and distributors of commercial fishing supplies, lien threads and twines.

THE CHAIRMAN: They are a very well-known firm in Vancouver,

and are engaged in that business.

MR. McMASTER: Yes; at what time is my learned friend speaking of?

THE WITNESS: I would say about the end of May, when he was probably first contacted. I would not like to be specific about it, but I shall be glad to give you the information later on.

THE CHAIRMAN: Well, Mr. Leckie will be able to tell us.

A Yes, sir. They were agents for twine companies and gillnetting and seine twine and the advice the Custodian had, anyway, was that the person would be a qualified appraiser.

To indicate the Custodian's policy at that particular time, I would like to say that on May 19, 1942, the Custodian contacted all the canneries, or at least, a large number of them, advising them that he was anxious that as many Japanese nets as possible should be disposed of at reasonable prices before they deteriorated, and with that in mind, some propositions were made--that if the canneries had nets owned by the Japanese at their canneries, in their control, which they, themselves, would be willing to buy, or for which they could find purchasers, they were asked to refer such offers to the Custodian--this being the purpose that if the Japanese owner had not been evacuated, the offer would be referred to him, and they would try to arrange a sale directly with the owner.

If the owner had been evacuated, "we are asking Mr. C. P. Leckie"--this will establish the date--

the 19th of May--that is the date, certainly, we contacted Mr. Leckie on that date:

> "We are asking Mr. C. P. Leckie to value such nets, and if the price is at all reasonable, we shall authorize the transaction".

I presume "offer" is a better expression. A number of the Japanese had left nets at various street addresses in Vancouver, and it was suggested to Mr. Leckie that these nets be picked up, and with the consent of the canning company, be distributed--whichever canning company was most convenient to receive them.

> "We much appreciate your co-operation in above, which we believe will be to the mutual interest of the Japanese and the fishing industry."

There were further contacts made with these cannery companies on July 2nd, 1942, when again it was stated the Custodian was anxious to assist the fishing industry by getting Japanese-owned fishing nets into use, and thereby also relieving the net storage space, and it reiterates again, if a Japanese has authorized the cannery manager to sell his nets at a certain price, and if those prices could be obtained, it was in order to go ahead and make the sale, and advise us when it was concluded, and remitting us (the Custodians) the money, and we will then contact the owners.

MR. McMASTER: What is the date of that again?

A July 2nd, 1942.

"Any other offer for nets must be referred to this office. It will be in order to do this by telephone, if the case is urgent, and we will obtain prompt attention. If the Japanese will not accept the offer, or if he does not acknowledge our telegram, we will authorize the valuation, and sell at the appraised price."

After a considerable number of cases, we wrote or wired the Japanese who had been evacuated, submitting an offer. In some cases, we had replies, and in some cases, no reply was received.

MR. VIRTUE: When you go along, will you indicate what replies were received, to the letter of May 19th?

A I think, Mr. Virtue, it will come out--the result of it, in what I will bring out in a few minutes, if you will allow me to continue.

On August 31st,--

THE CHAIRMAN: Just apropos of Mr. Virtue's question, I think it is desirable that counsel should refrain from questioning the witness during his statement in chief, because they will have plenty of time to cross-examine Mr. Shears, and I think it would be desirable to let him go straight ahead. If there are matters that counsel particularly want to have clarified at the time, do not hesitate to call attention to it, but apart from that, I would like to have Mr.Shears go ahead, because this is going to be a pretty protracted proceeding in any case.

THE WITNESS: You will notice, up to this time, there was

an endeavour being made to contact the Japanese prior to the actual consummation of the sale, unless the sale was actually at the price which had been set by the Japanese himself. But towards the end of August, or the first week in September--

THE CHAIRMAN: I think you have jumped, there. Did Leckie, in fact, make appraisals?

A Yes, sir, he did.

Q And then, as the result of those appraisals, you embarked on the policy of sale, and as I understand you, before making any sale, you consulted the Japanese unless the price realized was the price as set by the Japanese?

A Yes. But then a change came around the end of August or about that date, but I would not be specific within a week or so--at about the end of August, when the Custodian's policy was to sell at the Japanese price, but if that price were not obtainable, to sell at the appraised price, even without contacting the Japanese.

I am just drawing that distinction, say, between July and the end of August.

Up until the end of August, the general policy was to obtain consent from the Japanese, but after then, it was a question of disposing of the goods at a fair price on the basis of appraisal; and that policy was adopted, as I said before, because we were not, in many cases, able to get replies from the Japanese who were contacted.

The following, I think, may be quoted as examples of the sales made, and will indicate the angles of the policy. I will only read one, and it is a very short one, and I only brought it more by way of a sample. For example, on July 14th, 1942, -- perhaps it would be better to say it was from a fishing company:

> "We are attaching a cheque for $100.00 for the following net owned by Naru Tameziro, and stored at the Gulf of Georgia Cannery: 4/40 x 5-7/8 mesh x 50 meshes deep and 150 fathoms hung on the lines. This netting has been listed and tagged by the owner to be sold for $100.00".

And there was another one for $60.00 and another one for $8.00, but in every case the price indicated by the Japanese, and I would not care to say the exact number, but I would say a large number of that nature were received from various canneries, remitting to the Custodian money for nets which were in their possession, which they had taken and used and remitted the money to the Custodian.

Then there was another angle to the disposition of these nets which is indicated in a letter from another packing company, dated March 8th, 1946:

> "Below is a list showing the amounts credited to Japanese accounts. To the best of our knowledge, no case was given."

And then they indicate a number of Japanese names who apparently were indebted to this particular company

at the time of evacuation, and they had taken nets, presumably, at the tagged price.

No, I don't believe that can be so, because I notice there are odd cents--$231.86--but anyway they had nets in their possession which they advised us they had taken and credited to different Japanese accounts in settlement, or part settlement for advances these companies had made to these fisherman. And as you are aware, that was quite the usual policy of canneries on the coast, and elsewhere, to make advances to fishermen, to be paid, usually, out of the revenue of the catch; and in this case, the debt being owed them, they used the nets and gave credit for same.

That was a second angle. And then there is the third angle. This letter is dated June 10th, 1946, but it is in reference to something that happened in 1942, where a company advises us of a list of payments which they had made directly to Japanese for nets and gear which they had purchased from them in 1942.

I do not think there is any doubt that during that time-lag of evacuation, to which we have had to refer so often before, in regard to fish netting, many nets were sold by the Japanese, themselves.

MR. McMASTER: I am sorry to interrupt but I think the two letters referred to before should be filed, and that these letters that relate to fish-netting should also be filed, and there were two letters before that.

THE CHAIRMAN: The first letter is a 2-paged letter dated May 19th, 1942--July 2nd, 1942, written by the Custodian to two packing companies. That will be Exhibit 23.

(LETTER MARKED AS GENERAL EXHIBIT NO. 23)

THE CHAIRMAN: And the other letters are dated July 14, 16 and August 28, from the Gulf of Georgia Cannery to the Custodian, and further letters, March 9th, 1946, from Great-West Packing Company, and another from the Phoenix Cannery to the Custodian, both furnishing information as to credits which have been given to certain Japanese fishermen, such as those described by Mr.Shears.

THE WITNESS: In support of the statement I have made, a considerable amount of fish net was disposed of by the Japanese themselves, or taken by these cannery companies, and I can only say that approximately we appear to have received information to the effect that there was paid out or credited some $48,000.00 prior to the finish of the evacuation.

And we do have--there are notes somewhere in the Custodian's office of visits which representatives of cannery companies made, themselves, to Hastings Park, negotiating with the Japanese while they were still there, for the sale of their nets.

THE CHAIRMAN: In all those instances, those transactions were fully carried out before the Custodian had notice of it?

A Yes, they were made by the cannery companies, doing the things as indicated in those letters, and then

remitted to us, but the actual deal was made by the canning companies.

MR. HUNTER: Q: In one of those letters, you speak of a cannery which had written the Custodian and said they had sold these nets, and the amount was charged against the debt owing by the Japanese to that cannery. Did you make any other inquiries as to whether they had obtained a fair market value for those nets?

A I would not like to answer that. I would rather think that the Custodian did not, on the assumption that these nets had been left by the Japanese, themselves, with the cannery, on a specific arrangement, even as to the very pricing of the net--that was an arrangement between themselves,--if the Japanese could get that amount, he was satisfied to sell it; and I would not like to say we did or did not explore the amounts credited by the companies on their books.

Q Did you ascertain whether they had been sold for the prices for which they had been tagged?

A I could not answer that, Mr.Hunter, specifically. It would appear to me that they would be following out the instructions--if they were following the instructions we gave them, they would, of necessity, use the tagged price, otherwise they were requested to refer it to us.

Q But when you received a letter like that, was that the end of it, or did you actually make any further check on it?

A At the present moment, I would not be prepared to give an answer. This was, unfortunately, in the early days when I was not in the position that I am now. I am not trying to hedge on that.

Q Would it be possible for you to find out, and let us know?

A Yes, I think so, by examining the records. I will have that done.

THE CHAIRMAN: It might be desirable. On the same topic--did the Custodians often receive any complaints from any Japanese in connection with any of these sales?

A I do not recollect any coming in, but that does not mean there may not have been some; but it certainly indicates there was not a large number. Generally speaking, I haven't anything in mind of any large protests being made. I don't know of any large protests being made by the Japanese for nets which the companies had taken and sold on their behalf.

MR. HUNTER: Perhaps my learned friend could say whether they know if any claims were made for nets which were disposed of in that manner, and if not, we don't need to go into it any further.

MR. McMASTER: I couldn't say. I am afraid I would not like to be responsible for some 1400 claims.

THE CHAIRMAN:On the other hand, it is a question whether those claims would come under the Department, in any case. However, I think that is all we need to go into just now.

THE WITNESS: Reference was made to the question of inventories. Reference was made to the question of

inventories in previous correspondence, and I stated no inventories had been supplied to us by the companies, and that I believe to be true.

On August 27th, 1942, I have a copy of a memorandum which I sent to the man in charge of our office, who was in charge of this particular phase of our work, and I state that the matter of the inventory of fish netting should be given immediate attention--assuming Mr. Robinson--
10 and Mr. Robinson was an employee of theCustodian--and I think I might interject here, in case I should forget--the Custodian did open something in the nature of a branch office at Steveston--the only place that he did that, and the purpose of it was the very fact there was an accumulation of fish nets and chattels in that area, and Mr. Robinson was employed by the Custodian, and had an office there. And I say,"assuming Mr. Robinson is to undertake this work, I think he will require help--preferably
20 from one of the cannery men." I say "This need not be a high-class man, but someone with practical experience in identifying the type of net, and he can work actually with Mr. Robinson, so that the results obtained will enable us to identify both the net and the owner, and show clearly the information necessary to offer these nets for sale.

"The following procedure should be carried out: Each net should be tagged with the Custodian's tag, and marked clearly in sequence, No. 1 and
30 No. 2, etc."

And I might say that was done, and the numbers made by the Custodian were Nos. 1, 2, 3 and we set up a card index in our office.

THE CHAIRMAN: When was that instituted?

A My memorandum is August 7th, 1942, but I will explain that in a moment. It was not immediately employed. "In all or the majority of cases, the fisherman's tag will already be found on the net, and from this and the net, itself, the following information should be elicited:"--

and I will just skip something that is not important.

"The Japanese name, the size of the thread, and the depth of the net, and the condition, and the Japanese's value where indicated. In cases where the Japanese tag does not fully indicate its length, this information, for the time being, should be omitted, or estimated, and the information obtained later."

One of the problems in regard to this fish net was a large net was hung up, and its depth might be obtained, although that was not particulary easy but its length was hard to know unless the net was properly stretched out, and the memorandum at the time of taking the inventory, it was to get a record and be as precise as possible, but in such a thing as taking down a net merely to find its exact length, that was not necessary.

That was on August 7th, 1942. It will be understood, sir, that these nets were still in various net companies' houses--

THE CHAIRMAN: Cannery company houses--not net houses.

A Cannery company houses--exactly. This inventory was started by Mr. Robinson--soon after this-- I think it might be a matter of a couple of weeks--no lengthy period.

What I intended to indicate before this was not the precise date on which we started to take inventories. Anyway, Mr. Robinson started an inventory. He did give the nets a number, and in our office, we set up the record which we obtained from the inventory.

It was not until the end of September, 1942, that for the first time the Custodian secured some net house for his own use, and we secured what we called the Takahashi net house, because it was on Takahashi's property. Takahashi, himself, had sub-let his property to the National Fishery Company, and we, ourselves, leased this net house from the National Fisheries, but as I indicated before, one storage place was by no means sufficient to take care of all the nets that were then left, and we could only take care of a proportion of the nets in that particular cannery house. I believe--

MR. HUNTER: Had these nets been appraised by Mr. Leckie prior to this inventory?

A They had been appraised by Mr. Leckie prior to the inventory, as and when there was need for appraisal. Mr. Leckie did not, in the first instance, go out and appraise all the nets that he could find, but as and when inquiries were made for fishing nets,

Mr. Leckie was contacted, and made an appraisal. He did not go out for a specific net, but he went out for a group of nets, and appraised them, and then he would go out again.

MR. HUNTER: Q: It was usual, after you had an offer, for him to go out?

A Yes, that was usual, after we had an offer. There is just one qualification. Various types of nets are used in different seasons, and in some cases, I think--I don't want to be too positive about this, but this was the general idea: if a certain type of netting was likely to be used in the near future, and when a net is called for, and used originally, there were cases where Mr. Leckie appraised a group of nets, so as to be expected for others to be made on that particular type of netting.

Every time that Mr. Robinson and his man made that inventory in various cannery companies' net houses, it was almost two months, I believe, before any movement was made to our actual warehouse; and of course, there were sales being made during that interval, which did not help to simplify the matter of keeping track of those particular fishnets.

And then, sir, at this time, there came a further complication in the matter, and I think you will understand it is my intention to give you the whole story. I am not trying to paint a picture one way or the other, as I think this statement will bear out: that we found this to be happening: when a fisherman wanted to purchase a net, of course, before doing so,

it was necessary for him to inspect the net, and permission therefor was given for him to go into the Takahashi net house, for example, and the warehouseman say: "There you are: these nets are tagged; you can go and look at them." And these fishermen went in, and they surveyed the nets. Now if you can picture it--you go into the net house to see anything, and you would have to wend your way all through the house to the far end to get to the end of it, and we did not know this at the time, but it became apparent afterwards what some of the fishermen were doing. They would go up to a net and say it was a net they might have a desire to purchase, and it was tagged, say, at $180.00, and alongside of it there was a net tagged at $60.00, and they decided they would just switch the tags. They would walk around the net house for a little longer, and they would say then to Mr. Robinson: "Mr. Robinson, I would like to purchase this net." And they would come up and say,"The fisherman is prepared to sell it for $60.00", and then they would take that net, and they would get a net worth $180.00 for $60.00.

Q Were these fishermen able to make an inspection of the nets in the absence of the Custodian?

A Not in the absence of the Custodian, but they were not always in his sight, and that was the purpose of my describing the situation. Mr. Robinson was there all the time, and prospective fisherman would come, and there would be a number of men inspecting the nets for the purpose of buying, and the point

I have raised not only makes this to be true--that a particular net worth $180.00 was sold for $60.00, but another net that was worth only $60.00 had a tag of $180.00 on it, and then when someone became interested in that net, he would say, "Why, this price is ridiculous. This net is not worth $180.00." And he might not discover that the description of the net was not identical with the net on which the tag was; and even an expert cannot tell very readily whether a net is 60/6 or 70/6, the variations are so fine, especially in a new net. It is not the same idea as taking a can of beans and calling it a can of soup, but you have a net, and in one case there is a description there, but the description is hard to identify with the net, itself; and because of that, a further complication arose at the time that particular net was being sold.

THE CHAIRMAN: Was this practice, if such it may be called, very general, or did it happen only in a few instances?

A We believe it was fairly general. I was advised, anyway, of it, when, on a particular day, Mr. Robinson reported that he had found up in the corner of the net house a large number of cards--oh, excuse me, I have said that now--a large number of tags which had been thrown in a corner; and there, in addition to the switching of tags, we came across lots of nets, afterwards, which had no tags at all on them; and on one occasion I know I had a report

that there were thirteen of these tags that were found at the end of the day. Now sir, as soon as we became aware of this, and I cannot positively say how long this had been going on, but as soon as we became aware of it we did give Mr. Robinson more specific instructions than he would have to give further supervision and almost pilot anyone around who was interested in the purchase of these fish nets.

Q When were these instructions given?

A Let me see -- I was just trying to think of the story -- I wouldn't positive -- it would be in the fall of 1942.

Q And you did not set up the Takahashi net house until when? A. September 1942 was the Takahashi net house and I think it would be in October probably the first time my attention was drawn to it. I would not like to be specific but I do know a considerable number of nets were sold before it was called to my attention.

Q So the practice could not have been carried on for more than two or three months?

A Yes, I think that is fair to say so, and I mention that on no occasion did we receive any inventories from fish companies. I was advised by one of my men, who was in what we call our protection department, that on one of his trips to Steveston he had a conversation with the Manager of one of the packing companies.

MR. McMASTER: Q: That is getting in some round about conversation with somebody?

A Well, I can mention the names if you wish.

THE CHAIRMAN: I do not think evidence of that character is of very much value, Mr. Shears.

A Yes, but I have something in evidence of it here.

Q Well, the point is, what did you do in consequence of the advice you got. Did you take steps to prevent this kind of fraud being continued?

A Oh, well sir, I am through with that. This is another matter now.

Q You can appreciate Mr. Shears, I cannot place very much reliance on hearsay testimony, more particularly when it is hearsay, second or third-hand. It has no value at all from my point of view.

A I was asked to produce what documents I had by Mr. McMaster and I was doing just what Mr. McMaster asked me to do.

Q Well,let us have the record rather than hearsay.

MR. HUNTER: Perhaps Mr. Shears could describe what effect this had and then we can see what value it had.

THE WITNESS: Well, the effect of it was the man from our office obtained information that this particular man did have record books of nets left in their cannery and the date of it was March 18th,1946, and these books -- I have only just brought two of them -- I think there are six or eight books, and these books were surrendered to us at that time in accordance with an arrangement by the company . The record books were obtained direct from them on February 14th , 1946 , by Mr. George Peters of the Custodian's office.

THE COMMISSIONER: Q; What is the name of the company.

A The B.C.Packers. The record books were given to the Japanese fish collectors by the B.C.Packers who were instructed to have the Japanese fishermen enter into these record books their nets, and any chattels which were left by them in the companies houses and net houses. The B.C.Packers would not take any responsibility for the nets stored in their net houses and company houses and no physical check was made of their books. That is to say the Japanese was given this book and he himself wrote in it -- yes, there are different writings, and I cannot say what they are, but the Japanese name is here and a description of the netting and a price on the outside. This particular canning company stated they had these in their possession, and they did not consider it, as far as they were concerned, an inventory, and neither did they accept any responsibility for same; and upon examining these books it can be seen the items have been ruled out: for example: "Sold to B.C.Packers", or "Sold to Individuals".

MR. HUNTER: Were these for just one packing company or for a number of different packers?

A They were all from the B.C.Packing Company, but also from their subsidiaries.

Q They are identified? A. Yes, each book is identified. The other one I have is the Pacific Coast Cannery.

MR. HUNTER: I would suggest those go in and that they

made available to the Custodian of the Japanese race.

THE COMMISSIONER: I do not see how this is helpful at all.

MR. HUNTER: Except to verify the Japanese statement they were left here.

THE COMMISSIONER: In relation to an individual thing -- but as far as general evidence is concerned, they seem of very little help.

MR. HUNTER: Negative rather than positive.

THE COMMISSIONER: The others did not have them.

MR. McMASTER: I think when these are put in it will show the B.C.Packers took over the responsibility for them being stored there.

THE COMMISSIONER: Well that seemed to be the attitude of all the canneries. Certainly that was indicated by the Japanese claimants.

MR. HUNTER: I would like to make it clear that I am not conceding that generally. I may concede it in specific cases.

MR. McMASTER: I think in the face of that statement that memorandum should be marked asan exhibit.

MR. HUNTER: Q; Whose memorandum is it?

A It is Mr. Peters in my office. It is merely reporting the circumstances under which he obtained these books from this particular company.

MR. HUNTER: Well, that is only Mr. Hunter's statement and I would suggest they call the cannery representative.

THE COMMISSIONER: I cannot appreciate what help these

books are to me except as to the general date -- it affords very little help.

MR. HUNTER: Well, the only help is that you will know there were records kept.

THE COMMISSIONER: Shortly put, what Mr. Shears is seeking to bring out is that in one instance the B.C.Packing Company was in possession of a record of nets kept.

MR. McMASTER: It so happens that this was the only record they ever collected.

THE WITNESS: I think sir, that that is perhaps all I want to say in regard to the question of fish netting.

MR. HUNTER: Mr. Shears, there are a few questions that I would like to ask you.

Q Did the canneries invariably report to you when they had sold nets?

A We assumed that they did.

Q Do you know? A. We cannot be positive.

Q Were there cases -- did cases crop up were you found they had sold nets and had not reported them?

A I believe we had cases where we found nets had been sold, and after contacting them we received remittances for them.

Q My recollection is in one case the Army had seized nets and kept them for camouflaging. Was there a record kept of the nets seized and who they belonged to? A. No, I am afraid the Custodian's office has not any accurate record of what was taken for that purpose. The type of nets

which they took was the inferior netting, netting which appeared to be torn, but I must admit my man in charge did not perhaps keep as accurate an account as we now wish he had done.

Q Have you any knowledge of how many nets they took?

A I don't think so -- without looking at the records-- I am not sure that we have a specific record of it.

Q How many vehicles were used to remove them , do you know? A. I am afraid I cannot answer that just at the moment.

Q Well, how do you know they were taken by the Army?

A Well, because there was some correspondence from the authorities directly with Ottawa as to the need which they had for a certain type of fish net and the Custodian was approached to know if there was any available. As a matter of fact, the type of netting which the Custodian had was not really the type best suited for their purpose but they took a certain quantity of it anyway.

Q Was there any compensation received for those nets?

A No, there was none.

Q Was there any effort made to obtain compensation?

A There again --

THE COMMISSIONER: By the Custodian, I take it.

MR. HUNTER: Yes.

THE WITNESS: There again I cannot clearly recollect the correspondence which was carried on, but that can be established from the records of the office.

THE COMMISSIONER: So far as Mr. Shears is concerned, he can have an adjournment to see if he can get any

information about it.

MR. HUNTER: But we cannot identify the owner.

THE WITNESS: We have no knowledge of whose nets they happen to be.

THE COMMISSIONER: Q; Under what circumstances were they taken ? Did the Army personnel simply walk into a net house and take what nets they wished?

A No, they made a request first to Ottawa and these nets were supposed to be of very little value. The nets they took were not valuable nets. It was nets that were mostly in the discard.

THE COMMISSIONER: Since the matter has been mentioned I think we should have some particular information rather than a particularly vague statement that some nets were taken and I think the issue should be dropped until we get something concrete.

THE WITNESS: There is correspondence that will be produced.

MR. HUNTER: Q: What procedure was taken to write-off nets that were considered to have no value?

A To write-off nets?

Q Yes, to declare them as valueless? What procedure was adopted? Did your appraiser value them and say, " This has no value"?

A The netting that was declared as having no value would be on the recommendation of the appraiser.

Q There is also something came up during one of the cases as to burglaries, and there was some mention of a burglary having been made into a cannery net house or your own net house -- I don't know which.

Can you give us something definite on that?

A Yes, the question of theft, which was indicated in the matter of household chattels applied also to this fish netting and the Takahashi house net house was broken into. And not only that, we have had evidence given to us by other cannery houses themselves stating their net houses were broken into, but I cannot give you the dates now.

Q Were these thefts prior or subsequent to the inventory?

A They were both. There was information, before we had taken inventory, that the company net houses had been broken into and it was after the inventory into the Takahashi net house that they were broken into.

Q Well, the ones that were stolen -- the burglary that occurred after the inventory was taken, what particularly inventory was taken to findout what was stolen. Was there one taken?

A No, that wasn't taken.

Q Was there some reason why it was impracticable to do that? A. Well, one of the reasons was, although it was evident that the net house had been broken into, and nets had been stolen, from the general appearance of the house, to retake an inventory would have been quite a task at that time. There was no actual check made anyway.

Q I see.

THE COMMISSIONER: Now are there some other matters you wish to mention?

A That is all in regard to fish netting, and then when

you are ready I could proceed with motor vehicles if that is what you have in mind.

THE COMMISSIONER: Well perhaps this might be an appropriate time to recess.

(PROCEEDINGS RESUMED AFTER SHORT RECESS)

F. G. SHEARS, resumed stand.

MR. HUNTER: Q: Carry on, Mr. Shears, please.

A Just before passing on to motor cars, sir, I believe I could clear up something in regard to the question of fish netting, from my memorandum report which I have in front of me, and it is to the effect that some nets which were inventoried were found later to be of no value. They had been left as bundles, and when they were untied they were found to have been rotten. These nets were therefore discarded for the purpose of sale. No actual record was kept of them, but two truckloads of netting were taken by the Military Pacific Command for camouflage purposes, and in regard to which we have no actual record. I could probably found out sir, later, the authority for that -- how the Pacific Command came into the picture, if you wish, but the actual facts are that two trucks were taken by them without any financial consideration, of these nets and they were nets which had no particular commercial value.

MR. McMASTER: Q: How would you find out?

A It is a report, and I would have to refer back to the original report.

Q What is the date of the report?

A Well, this is just summarizing it. It starts from

1942 and it goes up to 1947.

THE COMMISSIONER:Q:Will you endeavor to find out when this truckload of discarded nets was taken and by what Army official?

A Yes. Order-in-Council P.C.1486 has been referred to before in regard to a Japanese being required to leave the protective area, and in that same Order-in-Council, it was a part of the Order, " It shall be the duty of every person of the Japanese race, having in his possession, or upon his premises any article mentioned in the next preceding paragraph, forthwith to cause such article to be delivered up to to an officer or constable of the police force of the Province or City in or near such locality to an officer or constable of the Royal Canadian Mounted Police."

The Order-in-Council was dated February 24th, 1942, and it was apparently February 26th, 1942 -- and apparently no action was taken by the police authorities until March 6th, 1942, and I have not been able to find any public notice actually signed by the R.C.M.P. and I think possibly the only notice in the press was from the Vancouver Sun and the Daily Province, both on March 6th, 1942, and I will just read a sentence or two. " What the law declares " And it says, "Radio receiving sets and cameras are to be delivered up by all persons of the Japanese race to the Royal Canadian Mounted Police Barracks , 33rd and Heather Street, commencing at 9. a.m. Monday, March 9th, 1942." And

"(2) All motor vehicles, which include trucks, trailers and motor cycles in possession or use of persons of the Japanese race are to be delivered to the R.C.M.P. at Hastings Park Exhibiton Grounds, commencing at 9.a.m. Monday, March 9th, 1942." Now it appeared from the publication of Order-in-Council 1486, on February 24th, up until the date of surrender -- the date on which the cars were to be surrendered, namely March 9th, 1942, that in that interval a considerable number of motor vehicles had been disposed of by the Japanese owners themselves.

In regard to this matter there was a ruling given by the Minister of Justice, that although it was an offence on the part of the Japanese who had disposed of their cars after the publication of the notice, yet it had been decided -- or it was the Minister of Justice' ruling that that would not invalidate the sale, and that proper title would rest in the purchaser.

It was the R.C.M.P. who arranged for space at Hastings Park or possibly the Securities Commission , but it was not the Custodian.

The buildings in which it was anticipated the trucks and cars would be stored, those were required by the B.C.Securities Commission for their own purposes, connected with the evacuation of the Japanese who were being brought into Hastings Park from various outlying places, as a center from which they might further be sent to Interior housing settlements.

MR. HUNTER: Perhaps at this point, I might make the legal position clear. This was ordered by P.C. 1486,

of the 24th of February 1942 and pursuant to that on the 26th the notice was published, and between that time and the 9th of March, many of the vehicles were sold by the individuals themselves, and it might be thought at that time the Department had no authority to say whether they were valid sales, but under P.C. 1665 they had authority. It says -- speaking about the various types of property vested in the Custodian, "delivered up by the owner to the Custodian", in other words, only when it was actually delivered up was it vested in the Custodian and until that time there was no reason why the Japanese could not dispose of it.

THE COMMISSIONER: The quotation you have quoted is taken from what Order-in-Council.

MR. HUNTER: 1665. Therewas some question whether the Department of Justice had the right to say, " We will consider sales up to a certain date valid", but until these things had been actually turned over under 1665, they don't vest in the Custodian, so the sale was valid.

I just mention that because the point has been argued at some time, that the Minister of Justice had no right to make such a ruling.

THE COMMISSIONER: Yes.

THE WITNESS: The buildings at Hastings Park, as I say, being required by the B.C.Securities Commission, cars which had been delivered up, were placed on the race-track there. The R.C.M.P. issued receipts. Many

of the forms we have seen in the individual hearings. They were really yellow forms, which generally indicate the condition of the vehicle and the speedometer reading, and after that the Custodian accepted delivery of the cars at Hastings Park and at other places where they had been assembled.

Very shortly after this, and I am speaking of still in the month of March, apparently inquiries were made from the Army, and the Air Force, and the R.C.M.P. direct to Ottawa, stating if cars could be made available that those government departments would be interested, and the Secretary of State, the Honourable Norman McLarty indicated if a fair reasonable price could be obtained for the cars, that were required, -- the reasonable price to be obtained by appraisal-- that it would be in order for these government departments to buy the dcars which they required.

An appraisal of practically all the motor vehicles was made, or at least started on March 26th, 1942 -- two main companies carrying out the appraisal, the Consolidated Motors and the McDermott Motors; at Victoria, The Davis Drake Company. The cars and trucks were all given a number -- in fact the same number as what is called the seizure number used by the R.C.M.P.

Just to clear up the matter of the cars which were disposed of to government departments, I can indicate that 15 were sold to the British Columbia Securities Commission and 24 to the R.C.M.P.; one to the B.C.Penitentiary; 28 to the Department

of Lands; 2 to the City of Vancouver and one to the Provincial Protection Committee,-- a total of 71 vehicles.

Instructions were received by the local office of the Custodian, from Dr. E.H.Coleman, Under-secretary of State and Deputy Custodian at Ottawa, which states, "I think after the various government departments interested have made their selections the Custodian will be prepared , if we cannot dispose of the cars at satisfactory prices by advertisement, we can consider the other suggestion of having them catologued and sold by used car dealers." I might say right here that that was not done,-- the selling by used-car dealers was not done.

"The Custodian is of the opinion that we would be justified in charging disbursements, although we are precluded from making a commission charge in connection with the disposal of cars."

MR. McMASTER: Is that letter being filed.

A It is just a record.

THE COMMISSIONER: Well, that has been read into the record now?

A Yes.

THE COMMISSIONER: Do you want it filed?

MR. McMASTER: Yes, I would like to know just what exactly it is.

A It is an excerpt from the letter of March 30th, 1942.

THE COMMISSIONER: From whom?

A From Dr. Coleman.

Q Instructions received from a department of the government? A. Yes, I am just introducing that as the authority under which the government was acting.

MR. HUNTER: Then I don't think there is any need for its being filed then.

THE COMMISSIONR: It will be satisfactory if it is read into the record.

THE WITNESS: I have already indicated the departments of the Government that took cars, and that with these authorizations from Ottawa, advertisements were placed in the public press. It have one here, it is just a sample. It looks like a proof. It is "For Sale -- motor vehicles . Tenders will be received by the undersigned at his office up to noon, daylight saving time, Saturday, 25th July 1942, for motor cars, trucks, motor cycles under the control of the Custodian. Tenders will be received on the following terms and conditions. All motor car vehicles will be offered for sale as individual units,--offered for sale without warranty -- neither the highest or any tender accepted. " And so on. And then it states where the information as to their location may be obtained -- by communicating with one of the following-- the office of the Custodian, at 506 Royal Bank Building, -- Prince Rupert, Duncan, Cranbrook, Ganges; the Bank of Toronto Building, Toronto and Port Moody. Those are the locations, and the people they should contact are also mentioned in the advertisement.

This notice was signed, "G.W.McPherson,

authorized secretary of state and Custodian, 506 Royal Bank Building, Vancouver".

It is not dated, but it calls for tenders on the 25th July 1942.

MR. HUNTER:Q:What paper was that published in, Mr. Shears?

A I could not say the number of papers in which it was published.

There is another one that I have here -- "For Sale, motor vehicles ". by notice published in Vancouver and Victoria, in the month of July. Tenders were called for motor vehicles under the Custodian's control and then it gives where the vehicles are located -- in Vancouver and Victoria and where they can obtain the particulars and conditions of sale.

MR. McMASTER:Q:Will you tell me when that was published and when the offers were to be in?

A I beg your pardon?

Q When was it published and when were the offers to be in? A. The offers in the first case were to be in on the 25th of July 1942.

Q And what about the second one?

A It is not there. It simply states they are unsold and they can get information as to the conditions of sale by applying to the Custodian's office and I shall indicate what those conditions were.

Q When was that published?

A October 3rd, 1942.

MR. HUNTER: Q; Mr. Shears, will you obtain for us in what papers those notices were published and when?

Because it obviously is of some importance to know the public had full notice of this?

A Yes, I am sorry I haven't got that, but I shall endeavor to do that. Oh, I can give the answer right now. I knew of this, but I did not thin I had put it in my file. The advertisement appeared in the following papers.

Q This is the first one, is it?

A This is the first one: The Vancouver Province -- July 15th; Vancouver Sun, July 16th, Vancouver News Herland, July 17th; Duncan Cowichan Leader, July 16th; Cranbrook Courier July 16th; Victoria Colonist, July 16th, Victoria Times, July 15th, The Haney Gazette, July 16th; the Prince Rupert News, July 15th; the Prince Rupert Empire, July 16th, and the New Westminster Columbian, July 16th -- all of course, in 1942.

THE COMMISSIONER: May I see that for a moment.

THE WITNESS: It is apparently all about this time.

Mr. McMASTER: Could this be marked, my lord.

THE COMMISSIONER: Yes. Advertisement proposed sale of automobiles, will be filed Exhibit 25.

(GENERAL EXHIBIT No. 25)

THE CHAIRMAN: I do not think there is any need to file the list of newspaper?

MR. MCMASTER: No, it as read into the record.

THE WITNESS: A reference was made in the advertisement to a detailed inventory. There was no printed inventory -- that is by the usual method of printing, but a mimeograph inventory was prepared. It consists

of some 13 or 14 pages -- 13 pages -- and the inventory gives the make of the car, the model and the yes; its style; the number of tires; extra equipment, the speedometer reading, and the Custodian's number., and it states that these vehicles are stored in the following places.

And before I read the following places I should state that the racing season coming on in Vancouver, (I think it was in June 1942) it was necessary for the cars that were stored on the race track to be moved, and it was at that time that they were moved and divided up and put in the following locations. 929 Main Street; 1147 Georgia Street; McDermott Motors Ltd., 1100 Georgia Street, Consolidated Motors Ltd., 1230 Georgia Street; Johnson Motor Company Ltd., 2290 Main Street; Fred Deeley Ltd., 1396 Granville Street; Courtice Motors Ltd., 1396 Granville Street; Madill Garage Company, 660 Howe Street; Dueck-Nichol Motors Ltd., 1305 West Broadway, and also locations at Cranbrook, Duncan, Port Moody, Prince Rupert and Victoria.

The results of advertising and calling for tenders on these motor vehicles resulted in something over 500 offers being received. The highest offer, provided it was equal to or above the appraised price was immediately accepted. There was at that time, of course, no reference to the Advisory Committees. This was prior to the date of them being set up.

THE COMMISSIONER:Q:These appraisals were all made by

competent motor-car dealers?

A Yes, sir.

MR. HUNTER: I think your lordship will recall the names of Mr. Crews and Mr. Broome (?).

THE WITNESS: It was noticed that when the tenders were being dealt with, in addition to those that were equal to and above the appraised price, there were a number of tenders fairly close to the appraised price, but below it. The prospects of the used car market improving at that time, according to the information which the office of the Custodian received, was that there would not likely be any improvement .

Meetings were held with some of the car dealers at the office of the Custodian on June 16th, 1942. The attitude of these used car dealers was very pessimistic. It might be said they could naturally take that position but it was stated by them that they themselves had something like 2,000 used cars for disposition and that they themselves were reducing prices.

MR. McMASTER: If my learned friend is going to call evidence on that, it shouod be from these dealers.

THE COMMISSIONER: Yes, I think that testimony might as well come from the used-car dealers themselves when they give evidence.

THE WITNESS: Well, because of that, we changed our policy. Do you wish me to continue?

THE COMMISSIONER: Well, put it this way: In consequence of advice youreceived from appraisers, employed by the Custodian, you put into effect a change of policy?

A Yes.

Q And let the dealers themselves state what they did?

A Yes. As a result of that interview with them the Custodian decided that he would be prepared to accept offers for the unsold cars at between 15% or 20% less than the appraised price of the cars.

The theory behind that was, as indicated in that letter from Dr. Coleman, there was a suggestion that the unsold cars might be distributed among the used-car dealers and sold by them, in which case those used car dealers would charge a commission which was variously estimated as between 15% and 20%; and therefore the Custodian adopted it as his policy that rather than placing th ese cars on a commission basis with the used-car dealers, that he himself would be prepared to accept offers within that price range. I might say this however, was not made public in a wide open way.

The office information -- as the advertisement stated -- and especially that second one -- both of them -- both of the advertisements stated that information could be obtained at the office of the Custodian; and at that time one of our departments handled the matter of the disposition of the unsold cars.

They had in front of them a card index, which would indicate car number such and such was valued at $450.00. And the person would come in and inquire and they would be told that car could be sold for $450.00.

In some cases the prospective purc-hasers would say, " We will pay the price", and in other cases they would say, " We will not pay it. We don't think it is worth it". And then again, the Custodian's office was told, " You still don't reveal any price, but as that prospctive customer is going away, you can say, 'If you make an offer it will be given consideration '". And in many cases that person made an offer and if that offer was within that 15% or 20% (and I use those two figures because it comes within the range of two specified cars) -- if that offer came within that range -- not at the moment but later that person was advised his offer was accepted.

That is to say, the Custodian at that stage was trying to negotiate the best price he possibly could. But what I do want to indicate is a person coming up to the office was not told , "It has been appraised at $450.00 and you can have it for 15% to 20% less", and that was the policy that was carried out at that time.

MR. HUNTER: Q; When did that policy come into effect?

A I don't know that I can supply the date, but it was not a lengthy time after the closing of tenders on -- it is in the advertisement--July 25th. It was not long after that, and it was in view of that there were offers that were somewhat close to the appraised price.

Q And the date of the meeting when that policy was decided upon,was when? You gave us that, I think. I thought you said the 16th of July?

A I think I would have to refer to the records of the office, but I am not indicating it was not long after the closing of tenders on the 25th of July. There was no long space, and the policy was immediately adopted the cars should be sold on that basis.

The meeting with the various automobile people was on June 16th, and I would say it was almost at that date or very shortly afterwards that this new policy was put into effect.

Q Was this policy in effect as far as all motors cars were concerned or did it definitely only apply to those that were unsold?

A Only to those unsold.

Q After you had received your tenders pursuant to the first advertisement --

A The only offers that were accepted were those that were equal to or in excess of the valuation -- that was at first -- at the time of the first advertisement.

Q And then you made up a new advertisement. That was later on in the fall, and you are saying the policy applied to those that were unsold, but unsold as of what date?

A I think I would have to refer to the office records for that -- the second advertisement -- I don't think of necessity it means the starting date. It was another indication to the public there were cars still unsold but I will endeavor to establish the date of that.

Q I think it is quite relevant and if you can ascertain up to that date how many vehicles had been sold. I

think it has some significance.

A All right. Then before I pass from this particular question of motor vehicles, there is a particular deal in regard to motor vehicles in which the Pacific Co-Operative Union were concerned. The Pacific Co-Operative Union, as I believe you know, was a Japanese Co-operative of which some 75 or 78% were Japanese members, and it was these Japanese for the most part living in the Fraser Valley who had made lease arrangements with the white people from the P.C.U. for the sale of their growing crops and a large number of these Japanese during that interval to which reference has been made --(that is from the publication of the government notice of February 26th, up to March 9th) they had transferred over to the Pacific Co-Operative Union some 72 vehicles.

Those vehicles were demanded I believe by the R.C.M.P. to be delivered to Hastings Park and they were so delivered. They were taken by the Co-Operative and delivered to Hastings Park.

I think this will bring out what I want to say now. It is a letter written by G.W.McPherson, the authorised Deputy of the Secretary of State and of the Custodian, dated July 17th, 1942, to Dr. Coleman of Ottawa.

THE COMMISSIONER:Q:May I have the date again?

A July 17th, 1942. (Reading same). However, that was not carried out, as I have already stated. The negotiations took place in our office and I am sorry I got a little out of order there, because that did

not have particular reference to the Co-Operative Union. But the letter I would like to read is from the Manager of the Pacific Co Operative Union to Colonel Hill.

THE COMMISSIONER: Well we can file that and it need not be incorporated in the record.

Q Is there a reply to this?

MR. HUNTER: What is the date of that one?

THE COMMSSIONER: March 7th, 1942.

THE WITNESS: The reply is indicated in what follows:

THE COMMISSIONER: You might file the reply along with this letter.

THE WITNESS: We sent a document which the Pacific Co-Operative used in connection with this matter and it reads as follows: (Reading same). That was the document sent out .

(DOCUMENTS MARKED GENERAL EXHIBIT No. 26)

MR. HUNTER: Q; Was that sent to all parties who had left cars with them, or to only those who had transferred title?

A Only those who had left cars with them.

THE COMMISSIONER: Q: Do you wish to call any of these parties? I think it might be helpful if you called evidence on that. There are quite a number of cars involved and there has been quite a lot of controversy about it, Mr. McMaster.

MR. McMASTER: I don't think in British Columbia.

MR. VIRTUE: I don't think it is very serious and not more than two cases turned on it.

THE COMMISSIONER: Oh well, if that is the case, all right.

MR. HUNTER: Well, if anyone is ttesting the validity of the agreement --

THE COMMISSIONER: Go on.

THE WITNESS: To follow up just what I have said, there followed a letter written by G.W.McPherson, the Secretary of State, and authorized Custodian for Colonel Hill, and it is dated April 25th, 1942.

THE COMMISSIONER: This will be dealt with in the same way and it need not be recorded on the notes.

THE WITNESS: (Reading same)

MR. HUNTER: That letter is to whom?

A To Colonel Hill.

THE COMMISSIONER: That will be added to Exhibit 26.

THE WITNESS: I believe in Lethbridge, there was filed as an exhibit, a vesting order which vested these particular vehicles under the "Treating of Enemies Regulations" of 1939, but I don't know whether it was assigned here or not, but I have here a signed copy which I will read quickly.

THE COMMISSIONER: There is no need to read it. We can have it put in so it will be available to counsel if they want it.

MR. HUNTER: That is the divesting order under Section 29.

THE WITNESS: No, that is the vesting order.

MR. HUNTER: It is the divesting and vesting order. The Custodian divests in favour of the Pacific Co-Operative Union and it should not be filed in this matter. It should be filed with the schedule attached to it.

THE COMMISSIONER: All right, let us have the schedule. Are you nearly finished with this phase of it, Mr.

Shears? A. Yes, I believe in five minutes at the most. (Continuing reading). In regard to these motor vehicles -- . . . . so that they will be held to the account of the holder". And I think my letter to Mr. McPherson at Ottawa, will just about bring the thing to a conclusion.

On March 1st, 1943, --

THE COMMISSIONER: Those two letters can be filed together as Exhibit 28.

(DOCUMENTS MARKED GENERAL EXHIBIT No.28)

THE COMMISSIONER: We will adjourn now, and I would like today to adjourn to 2.30 so that I may endeavor to discharge another public obligation that I have to meet. We will adjourn not until 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. Blyg
Deputy Official Stenographer

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).

23rd
Page 271

Vancouver, B.C.,

September 21st, 22nd, 23rd & 24th, 1948.

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

PROCEEDINGS AT HEARING

(Pages 157 to 417).

Shears chief - Fishing vessels. 157-165
do V.L.A. deal 165-182.

Shears Cross exam re DVLA 182-313, 380, 410
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Shears cross-exam re farm lands. 339-351, 400
Shears cross-exam re Urban lands - 351, 360-379
re g.p. Farms, chattels 352; 380-396, 404

The Commissioner.

Shears

Vancouver, B.C.

September 21st, 1948 2.30 p.m.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

FRANK G. SHEARS, resumes stand.

THE WITNESS: I would like now, sir, to deal quite briefly, I think, with the question of the disposal of fishing vessels by the Custodian, and then the only other matter that I have at the moment, sir, would be the sale of the real property to the Veterans Land Act Committee. Scarcely need to be recited as I think it is so well known, the fact that the fishing vessels were excepted under Order-in-Council P.C. 1665 from becoming vested in the Custodian. An advisory committee was set up under the Chairmanship of Mr. Justice Sidney Smith, to deal with those boats . There were a negotiating committee and they negotiated sales between the owner of the boat and the purchaser and they did negotiate the sale of the majority of the boats; I believe something like 950. Those boats had been assembled for the most part in the Fraser River, something like a thousand boats, I think, and about 200 at Prince Rupert.

In the course of the movement by the Navy -- they were seized by the Navy at the time of Pearl Harbour, certain damage was done to some of those boats and a fund was set up under Order-in-Council 3737 of May 5th, 1942 to take care of those damages, and the damages when assessed by the surveyor of

Naval services and the surveyor for the committee- those damages were paid over to the Japanese owner for to some person to whom the Japanese had assigned his claim. I state that merely to bring out the point that at the time the Custodian was brought into the picture the majority of the vessels had been sold and I think at least the fair inference is that if these vessels had been offered for sale during the time in which they had been under the care of the Advisory committee, that the best ones would have been sold first, and that the boats, the vessels, which came into the hands of the Custodian were those for which up to that time no purchaser had been found. The Order-in-Council which brought the Custodian into the picture was dated July 20th,1942, P.C.6247 and under that Order it reads; as a protective measure only all vessels and equipment seized and detained under the authority of Order-in-Council of December 16th, 1941, P.C.9761, which have not been disposed of under the supervision of the Committee appointed by Order-in-Council of January 13th, 1942, P.C. 288 shall on and after August 1st, 1942 be vested and subject to the control and management of the Custodian as defined in the Consolidated regulations respecting trading with the enemy . . . . . and that all unfinished business of such committee in respect of any vessels or equipment vested in the Custodian pursuant to these regulations, shall on and after August 1st, 1942, be transferred to the Custodian.

The Custodian took delivery of 181 vessels and he continued to negotiate sales, the sale of these vessels, using wherever possible the appraised price which the committee had been using and when it was found that these prices could not always be obtained in view of the type of boats which were left, Mr. John Gould, a Marine Surveyor was called in to review the proposition as it concerned the Custodian, and to make appraisals of the boats which were now in the Custodian's hands. At this time those vessels were still moored out in the Fraser River at New Westminster, and it was on the recommendation that Mr. John Gould that these boats be brought into Vancouver into Coal Harbour -- there were one or two reasons for this being done. In the first place, in the Fraser River they were anchored out in the river and it was not possible for prospective purchasers to properly inspect them. There was also the question that if they remained there there was a possibility of freezing in and the ice damaging the boats, and in any case, Mr. John Gould strongly recommended those boats be removed and brought to Vancouver. This was done.

MR. McM ASTER: Q: Might we have the date of that?

A These boats were brought to Coal Harbour in September of 1942. I have not the date in September, but it was in September of 1942.

THE COMMISSIONER: Q: That was for the purpose of appraisal by Gould? A. They had been appraised in the Fraser River, and one of Mr. Gould's

recommendations was that for availability for sale, and also to avoid the possib lity of further damage, they be brought to Vancouver. They were brought to the Columbia waterfront and wharf space was rented from the Columbia waterfront and Stanley Park Shipyards.

One of our problems that the Custodian was up against when the boats were in the Fraser River was, that these boats were sinking, and the cost of keeping them afloat, was quite large, whereas, Mr. Gould thought by bringing them into Vancouver where there were the facilities for pulling out those boats, they could be more readily repairs and kept afloat. We did have to employ watchmen to take care of these boats. We needed to employ them for 24 hours a day in order that the boats might be kept afloat, otherwise quite a number of them were becoming filled with water and pumping operations were carried on. The boats were kept in shore and made available to the general public for sale. The boats were advertised for sale. This particular one is dated at Vancouver the 17th day of February 1943 and it states that the custodian offers the above property for sale and an inventory may be examined at the Custodian's office. It deals with fishing nets as well but the relevant point as far as we are concerned with now is the question of the sale of the fishing boats.

THE COMMISSIINER: Does it cover more than one vessel?

A Oh yes, vessels.

Q That advertisement was inserted when?

A This particular one was the 17th day of February, 1943. There were others but I could not just place my hands upon them.

Q The 17th of -- A. The 17th of February 1943, This particular one is. The procedure was that persons applying to the office of the Custodian were directed to go over to Coal Harbour and to talk to the watchman who was in charge of the boats, and he made the boats available for inspection, and Mr. John Gould was frequently there and aided any prospective purchaser's examination of of the boats, and from time to time the boats were sold at the appraised price and the Custodian had no further boats to sell. I do not know if there is anything further I can say in that regard. We did feel, and on the advice of those people who we kept in touch with, that these boats were certainly in such a condition that a sale at a fair market price was certainly desirable.

MR. HUNTER: Q: After you took over those boats , the fishing vessels disposal committee, did it terminate as of the 1st of August, 1942 ?

A No. I think as a matter of fact it continued to function. The actual Order-in-Council refers to 230 boats, is it, or something of that nature, whereas the actual number which the Custodian took over was 181, but the Order-in-Council of course, empowered the Custodian to take over the unfinished business. P.C. 6247 of July 20th reads: It was provided that on and after the 1st of August,

1942 all unfinished business of the committee under the chairmanship of the Honourable Mr. Justice Sidney Smith of Vancouver, should be transferred to the Custodian and the Custodian was vested with all vessels, equipment , which had not been disposed of under the supervisionof the said committee. Then it goes on, that since the transfer was effected the question had been raised as to the authority of the Custodian to deal with unfinished business of the said committee in relation to vessels or equipment disposed of prior to November 1st,1942 and it is expedient to remove any doubts in this respect.

Q Did the fishing vessels disposal committee dispose of vessels subsequent to the 1st of August, 1942?

A No, not subsequently to the 1st of August 1942, but subsequent to the passing of P.C. 6247, July 20th, 1942; I think that would be a fair statement to make.

Q Do you know, or are you guessing?

THE COMMISSIONER: Is this cross-examination?

MR. HUNTER: No, information.

A I am not at the moment -- this is not in my mind that the disposal committee did sell boats after the 1st of August. They had certain sales out which were not completed.

Q In any case you don't know of any sales made by them after the 1st?

A I am not aware of any sales actually made after the 1st of August, by the disposal committee.

Q And the unfinished business which you took over,

what type of unfinished business was that?

A The unfinished business that the Custodian took over, was mainly in relation to the collection of moneys due on boats which had been sold for which the full purchase price had not been paid.

Q Is that the only type of unfinished business which you recall? A. In addition to that before the advisory committee completed their work they had sold a certain number of boats for which they had not received a clearance, shall I call it, from the Japanese owner. I believe there may have been some fifty boats respecting which the disposal committee had made arrangements for sale, but the documents had not been signed by the Japanese owner, and in order to give effective conveyance to the purchaser of those boats, the Custodian, after August 1st, completed the necessary documents, transferring title to the purchasers.

Q How far had the disposal committee gone in the matter?

A For instance, had they given delivery of the boats?

THE COMMISSIONER: Yes, what is your objection, Mr. McMaster?

MR. McMASTER: I do not think my learned friend should suggest what was done.

MR. HUNTER: Q; How far had they gone in the matter. What was left for you?

A How far had who gone in the matter?

Q The Japanese Fishing Vessels Disposal Committee; how far had they gone in respect to these approximately fifty boats? A. In respect to

those boats they had absolutely given possession of those boats to the purchasers, and I believe it was on -- I don't know that I can be definite on the exact arrangements which the advisory committee did make; they certainly passed the boats over into the possession of the purchasers, and whether it was on the understanding that they themselves -- that the Japanese themselves or authority would be obtained I do not know.

THE COMMISSIONER: I do not think it is open to you to guess what might have been done. If there is any absolute proof we had better get it from somebody else.

MR. HUNTER: Q: You do not know?

A I do not know. All I know is, that the Custodian did complete the sale of certain boats which the Japanese Fishing Disposal committee had made arrangement to sell.

MR. HUNTER: Q: You mentioned fishing boats sinking. Did you have any sink while they were in the custody of the Custodian?

A I do not think I would care to be positive on that just at the moment. I am positive they were in danger of sinking continuously, and the watchmen, as I have already mentioned, were employed 24 hours a day in keeping many of those vessels afloat.

Q Did you have three-eight hour crews?

A I think we had four. We had three or four ships.

Q And their duties were what?

A And their duties were to keep the vessels afloat and

to be at all times on hand when persons were sent to them from the office of the Custodian for the purpose of showing prospective purchasers the boats, and inspecting the boats.

Q You mentioned this fund which was built up earlier. What was the name of the Order-in-Council -- the date? A. P.C. 3737, 5th of May, 1942.

Q That was to cover depreciation or damage as of what date? A. That was to cover damage done to the boat while in the possession of the government and also for equipment which apparently had been stolen off those boats , also during that time.

Q Was it to cover any depreciation after you had received the vessel?

A No, it was a fund for damage and loss which had taken place prior to that. I might say that the whole of that fund, which was $80,000 , was used, and a further grant was made for something like $10,000. I think something in the nature of $90,000 was appropriated by some source for the meeting of the claims for damage. This brings me sir, to the last general phase of the administration and work of the Custodian. I have previously dealt with the sale of real property, those properties which were sold on an individual by advertisement and tender. In addition to those properties which I think number 950, there was a group of farms, mostly in the Fraser Valley. At the time of evacuation, most of these farms, or a number

of these farms had growing crops on them, and these crops had in many instances, been previously marketed through co-operatives. One of them was the Pacific Co-Operative Union which was mentiomd this morning in reference to motor vehicles. And at that time there was a large number of lease arrangements in effect, and approximately 250 of these arrangements had been made through the co-operatives and there were something like 200 other lease arrangements that had been made other than through co-operatives. There were 150 approximately that the Custodian himself leased at the time, or after the Japanese had been evacuated., and there were some 150 or 200 properties for which no arrangement could be made. Some of these 150 properties were just bushlandd, but there were at least 1050 or 800 farms in the Fraser Valley, the ownership of which belonged to persons of the Japanese race.

This was the position when, on the 29th of June, 1942, Order-in-Council P.C. 5523 was passed and in that Order-in-Council it stated that except with the approval in writing of the director -- and that was the director of the Soldiers Settlement Board, -- Director, means, director of the Soldiers Settlement Board of Canada -- that except with the approval in writing of the director and in accordance with any terms of the conditions therein set out, no persons shall after the date herein (1) purchase lease or otherwise acquire or agree to purchase lease or otherwise acquire (2) either for himself or on behalf

of the owner sell, lease or otherwise dispose of or agree to sell lease or otherwise dispose of any agricultural land in the protected area of British Columbia owned by any person of the Japanese race or by any Japanese company.

Q What Order-in-Council was that?

A That is Order-in-Council P.S. 5523, dated 29th day of June,1942. There is another effective clause in it, which I will deal with in a minute. Under the clause which I have read the Custodian still remainsd the vested owner of these farmlands, but he was not permitted to lease, sell or in any way dispose of -- in view of this Order-in-Council, and that meant that certain co-operation had to be brought into effect between the office of the Custodian and the Soldiers' Settlement Board, because it was necessary to keep the tenants on those farmlands; and it was necessary in the case of farm lands on which there was no tenant, to endeavor to find a tenant, and wherever tenants were available, or could be found, a special form of lease was prepared, by which the Custodian was the lessor of the first part and the white person the lessee.- on the third page of which there was a clause, " Approved by the Director of Soldiers Settlement of Canada as to the land by his authorized representative". And in most cases, if not in all, that document was subscribed to by Mr. Barnett, the district manager of the Soldiers Settlement. The other effective clause of P.C. 5523, clause 4, stated that the director -- here

again styled the director of the Soldiers Settlement of Canada, shall cause an appraisal to be made of the fair present day value of all agricultural lands in any protected area of British Columbia owned by persons of Japanese race or by Japanese companies and shall report thereon to the Minister .

P.C. 469 to which reference has been made on occasions in the past besides clarifying the Custodian's position regarding fishing vessels, and establishing his powers to sell real property and personal property, revoked this particular Order-in/Council, P.C.5523. (Reading).

This restored the Custodian to his original position, not only being the vested owner of the lands but also any restrictions on his power to administer them and the Custodian continued then to administer those properties.

MR. McMASTER:Q:Could I have the date of that again?

A The 19th of January, 1943.

THE COMMISSIONER: What was the 4th of August, 1942?

MR.HUNTER: The amendment to 5523. I may say I have looked at that amendment and it has no significance that I can see.

THE COMMISSIONER: Q: The 19th of January?

A The 19th January, 1943. Again reference has been made to several of the advisory committee and on the 19th of May, 1943, there was held a meeting of the Rural Advisory committee in Vancouver at which besides the committee being present, and all the committee were there except Mayor Mott -- Mayor Mott

had been appointed at that time, but he had not been able to attend any meetings, besides the committee, the executive assistant to the Custodian, Mr. G. W. McPherson, and myself were present. Mr. McPherson had come from Ottawa and he informed the committee that an offer had been received from the director of the Veterans Land ACt, for the purchase of 769 parcels of farm land for the sum of $750,000. At that meeting there was no actual break-down of the values of each of those 769 parcels, but the information was supplied to the committee that the appraised value of the land, the appraised value by the Soldiers Settlement Board,-the appraisal which had been made under P.C. 5523, -- that their appraised value for the land was $398,251, and their appraised value for the improvements was $468,769., making a total of $867,000.

Information was given that on those 769 parcels there were 652 buildings, and it was mentioned that the assessed value, the municipal assessed value of the 769 parcels was one and a quarter million dollars. That was the information which was given verbally by Mr. McPherson, reporting from Ottawa.

It was at this point that the Chairman, Judge Whiteside, suggested the desirability of some spot valuations being made and he indicated that he would like Mr. McKenzie and Mr. Menzies and Mr. Yamaga, who was present at the meeting, to review and appraise some number of properties.

THE COMMISSIONER: Q; What was the date of this meeting?

A The date of this meeting was the 19th of May,1943.

Q Proceed? A. I am not quite sure in my mind how the particular parcels were chosen. I do know -- I do remember quite clearly that it was suggested there should be two in this district and three in Maple Ridge and two in Surrey to have just a general break-down in there of that nature, and I am rather inclined to think that right at the meeting, just looking at the list they said, "Well, we will go here, and we will go there", but I am quite positive there was no question of making any suggestion of properties which might be either particularly good or particularly bad. It was, I am sure just a straight decision to pick out a few properties here and there.

THE COMMISSIONER: Q:Excuse me, I would trouble you to give me the total price reported by Mr. McPherson once again. A. The offer was for 769 parcels and the offer for that number of parcels was $750,000. The only information which was given to those men who went out to appraise those properties was the legal position , the assessed value of the land and the assessed value of the buildings; the acreage; and the taxes. They were not aware of the individual offer -- they were not aware of the appraised price on these particular properties, as made by the Soldiers Settlement Board. This meeting of the 19th of May was on a Wednesday, and this meeting of the sub-committee agreed they would meet on the following

Monday, the 24th of May, 1943 -- I am speaking of the sub-committee which went out to make the valuation. In effect it was, apart from Mayor Mott, the whole committee. They arranged to meet on Monday, the 24th of May, 1943. The meeting was held in the office of Mr. McKenzie of New Westminster, and at that time Mr. McPherson, still being present, read for the first time the extra offer . Previously he had just stated what the offer was, and this was read from the Soldiers Settlement of Canada, 518, Rogers Building, Vancouver, May 17th,1943 and it is signed by Mr. I.T.Barnett, District Superintendent, addressed to the Custodian of Japanese properties.

(LETTER MARKED GENERAL EXHIBIT No. 29)

THE WITNESS: That was the formal offer which was read at the start of the meeting.

MR. McMASTER: Is the original available, my lord.

THE WITNESS: The original is not available as far as my office is concerned.

THE COMMISSIONER:Q:Have you any idea what has become of theoriginal? A. Yes sir, I would say that the original is in Ottawa. Mr.McPherson was here at the time and I will say since he left -- I assume the documents are in Ottawa. They are definitely not in the Vancouver office.

THE COMMISSIONER: I suppose you would like to have the original letter in, Mr. McMaster?

MR. McMASTER: If it is available, I would.

THE COMMISSIONER: I think it is a sufficiently important document that we should have the original, at least it

would be better if we could have the original.

MR. HUNTER: I can write to Ottawa. I presume they have it.

Q You are quite positive you have not it?

A I am quite positive., and I don't know that I have any right to say that it was sent. I feel sure —

MR. HUNTER: I will try and get it, my lord.

MR. McMASTER: If other documents are going to be referred to I think we should have the original.

THE COMMISSIONER: This is one of the most important features of the entire investigation. I think it is desirable that the government should furnish the original documents if possible at all.

THE WITNESS: It was at this point in the meeting when the members of the advisory committee,who had viewed seventeen properties, divulged the valuations which they had arrived at . It was done right in the meeting. Only one figure was produced, although it was intimated that the three appraisers had seen the properties and that they had arrived at some different ideas of valuation, but that they had struck an average and had agreed on the figures which they would submit as a whole. It was then for the first time that the figures were related to the value of those same properties as they appeared in the valuation list which was then before the committee made by Soldiers Settlement . It had been published before, of course, in the Public Accounts Committee but I have here just a typed statement of the comparative figures on those seventeen properties showing the

acreage, the total acreage and the cultivated acreage, the assessed value. It is the valuation of the Soldiers Settlement Board. The assessed value of these properties was $31,119. The Soldiers Settlement Board value --

THE COMMISSIONER:Q:What was that?

A $31,119. was the municipal assessed value and the Soldiers Settlement Board value was $28,232, and the appraisal brought back by the committee was $43,100. and it was noticed and mentiond right in the reading that the difference between the Soldiers Settlement Board valuation and the committee's valuation was that the Committee's valuation, was some 50% higher than the Soldiers Settlement Board valuation.

THE COMMISSIONER: The valuation will be Exhibit No. 30.

(VALUATION MARKED GENERAL EXHIBIT No. 30)

THE WITNESS: The committee then carried on with other business that it had in hand and later a committee of the Regional Board of the Veterans Land Act came to the meeting and that committee consisted of Mr. T. Godfrey,Mr. E. Carncroff and Mr. J. J. McLellan. They were there to negotiate, on behalf of the Veterans Land Act of the offer which had been submitted. They made the statement that a lot of the land they considered unsuitable property for the establishment of returned veterans. They mentioned that a considerable quantity of the land which had been appraised, were what they described as -- and I don't know the meaning of this -- as high lands which

had been farmed intensively, and the soil values were petering out, and that a large amount of the house property on those farms was in need of considerable repairs, and that they thought their offer of $750,000 was a fair offer.

In reply to this, after discussion, the committee took the attitude, "Well, if your appraised offer for those farms is $867,000, why do you contemplate buying them for $750,000". And the committee voiced the opinion they would not accept $750,000.

THE COMMISSIONER:Q:Where do you get the $867,000.?

A $867,000 was the appraised value of the Soldiers Settlement Board. I think you have the figures before you. This Soldiers Settlement Board valuation was $867,000, and the committee pointed out if the Soldier Settlement Board valuation was $867,000 why did they expect to purchase it for $750,000. After further discussion, Mr. Godfrey on behalf of the Veterans land, stated that he would be prepared to raise their offer to $800,000, but after a little further discussion the Advisory Committee refused to accept that offer and the meeting adjourned.

Just before adjourning, Mr. Godfrey said he would advise the Chairman if any change could be made or was to be made in the offer, but at this stage the committee had stated that they certainly would not consider anything less than the $867,000 and it refused $750,000. It also had refused $800,000. The following day the District Superintendent wrote to Mr. McPherson and indicated that they would be

prepared to raise their offer to $825,000.

MR.McMASTER:Q:Have you that letter?

A I have not the letter. I got this from the records., and they show as far as the Advisory committee are concerned-later on it may not be so material-- just to this extent that having received that offer of $825,000 it was not even referred back to the Advisory Committee, because the stand was taken , "No you sat in at the meeting on the 24th of May and the committee were emphatic they would not consider anything less than the appraised price", so that the offer of $825,000 was never actually submitted to the Advisory Board.

About this time, Mr. McPherson returned to Ottawa and the next that I heard was to be advised that as a result of negotiations which had been continued at Ottawa between the two government departments, that an offer of $850,000 was going to be made to the Custodian.

Q Was it later made?

A And it was later made.

MR. McMASTER: Q: Did the witness say they were advised that negotiations had taken place at Ottawa and an offer would be made?

A That is correct. Following that, a meeting was held on the 1st of June -- no, following that I telephoned Judge Whiteside and said that I had an offer to present to the committee and he called a meeting of the Advisory Committee.

THE COMMISSIONER: Did you have it?

A Yes, on the 1st of June, and at that meeting-Mr. McPherson was not then present; he was in Ottawa -- at that meeting this offer of $850,000 was submitted to the committee.

THE COMMISSIONER: Would you like a short recess.

(PROCEEDINGS RESUMED AFTER SHORT RECESS)

THE WITNESS: Just before adjournment, I was looking for an offer which I thought came with all its terms, but it came to me in the form of a letter in which Mr. Murcheson said , " I am prepared to increase our latest offer by $25,000, a total of $850,000, subject to the same terms and conditions which were set out in our written offer of May 17th".

Q And the date of that letter?

A The date of this was May 29th, 1943.

THE COMMISSIONER: That will be exhibit 31.

(LETTER MARKED GENERAL EXHIBIT No. 31)

THE WITNESS: With that offer before them, $850,000 --

THE COMMISSIONER: Yes, that is also a copy.

THE WITNESS: With that offer before them the committee then reviewed the fact that they how had an offer of $850,000 for properties which the Soldiers Settlement Board had valued at $867.000. A rough calculation was made and it was noted that the difference was about 1.9% less than the -- the offer was about 1.9% less than the valuation and the committee felt that in view of the fact this was a bulk offer for 769 parcels; that the Custodian would be relieved of further administration charges, and possibly further depreciation in the lands, -- in the upkeep

of the lands -- that they would be prepared to recommend an acceptance of that offer, and the decision was unanimous, and Judge Whiteside agreed that he would write himself the acceptance of the offer and this was sent to me - - a copy signed by the Chairman David Whiteside of the Advisory Committee, dated June 14th,1943, addressed to the Honourable the Secretary of State of Canada, Ottawa, Ontario.

THE COMMISSIONER: This document will also be marked as an exhibit.

(DOCUMENT MARKED GENERAL EXHIBIT No. 32)

THE COMMISSIONER: Now so far as the copy documents are concerned, the same comment I made earlier relates to all of them. I would like government counsel to get the original.

THE WITNESS: I think that all need perhaps be said from there on is perhaps to indicate that the offer for $850,000 -- I was later advised that the offer had been accepted and was/proceed to in the ordinary way to go through the mechanics of making the titles. I was advised that the offer had been accepted making the basis of adjustment as of the 1st of January,1943. It should be pointed out sir, that while that offer was for 769 parcels, when we came to the mechanics of examining the offer we found that included in their offer were certain pareels of land to which it was not possible for the Custodian to give title. I think in some cases they were not even Japanese land, but in any case it was only possible to transfer -- the number has slipped my

memoery, but it is not material at the moment, I don't think, so that the final sale price was not $850,000 but the final price was -- the final deal comprised 41 parcels for the sum of $792,265.22.

THE COMMISSIONER:Q:Now I will have that figure again?

A $792,265.22, but that adjustment was made in every case up to a decimal point on the original -- between the $867,000 and the $850,000 which was only 1.9 of a difference . The 41 parcels were sold for $792,265.22.

MR. HUNTER: Q: Is that net or gross?

A The net and the gross were identical -- no, I beg pardon-- no this figure has not taken into account the matter of adjustments. This is just the relationship between the $850,000 and the $867,000.

Q I was just wondering about that, because that would mean $81,000 had been deducted for about 25 parcels.

THE COMMISSIONER: It seems unreasonable to me.

A I am using the figures that were supplied by the office -- I beg pardon -- what has not been mentioned very frequently before at any time this matter has been brought up was just this, that there was later an additional offer for a limited number of parcels, 30 or 40.

MR.BRAIDWOOD: 45.

THE WITNESS: 45 -- some were withdrawn.

MR. BRAIDWOOD: Three.

THE COMMISSIONER: It becomes increasingly confusing.

THE WITNESS: I want to clarify it. That subsequent offer was accepted on exactly the same basis as the first offer.

THE COMMISSIONER: I think you had better get the figures. You had better leave this until the morning and get your figures straightened out.

MR. VIRTUE. Before you leave, Mr. Shears mentioned a letter from Ottawa, that the offer was accepted, but he did not give the date of the letter. I think it should be given so as to make the story complete -- with the correspondence.

MR. McMASTER: The witness said the letter was written by Judge Whiteside on June 14th,1943.

THE COMMISSIONER: That is the acceptance?

MR. McMASTER: No, that was the recommendation of the Committee.

THE COMMISSIONER: That is correct.

MR. VIRTUE: Then he said later he was advised that the offer had been accepted. Was he advised by letter?

THE WITNESS: I said later.

THE COMMISSIONER: Q: That was Judge Whiteside's acceptance of June 1943. You said the transaction had been concluded on that basis?

A No, I would have to refer to that, sir. I don't know whether -- I imagine there would be correspondence in regard to that. I do know I was definitely advised that the offer had been accepted and had been referred to the Secretary of State, The Honourable Norman McLarty.

THE COMMISSIONER: You had better look up your records and make sure of those few things that are in doubt now. A. Yes, I can do that in the morning.

THE COMMISSIONER: I think we had better adjourn to the morning.

PROCEEDINGS ADJOURNED TO SEPTEMBER 22, 10.00 a.m.)

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

Vancouver, B. C.,

September 22, 1948; 10:00 a.m.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

FRANK GOULD SHEARS resumed the stand and testified further as follows:

MR. HUNTER: There were a few details, my lord, which Mr. Shears was to clear up. He can go over those fairly rapidly now.

THE WITNESS: One, sir, was in connection with the actual instructions which I received from Ottawa to accept the offer of the Director of Veterans' Land Act for the purchase of the properties in the Valley. I have the original letter dated July 12, 1943, from Mr. G. W. McPherson, executive-assistant. I needn't read the letter there, except the first paragraph (reading). Then it just sets out the mechanics of the transfers of these properties. (LETTER MARKED GENERAL EXHIBIT NO. 33)

THE WITNESS: Then, sir, there was one other thing you desired clarified in regard to the actual offer. I have a copy of this for Mr. McMaster. I would just like to give a word of explanation of this. In my evidence yesterday, I stated that the first offer was for 769 parcels, and the committee was informed that the Soldiers' Settlement valuation was $867,000.00 and that they were offering $850,000.00. The actual addition, when all figures were assembled, made the appraisal not $867,000.00, but $865,672.00 on the 769 parcels

which they were offering. In splitting up the offer of $850,000.00, it added up to $849,999.00, a $1.00 difference. Then you will notice in that an increased offer of $3,818.23. That concerned a few properties on which the Veterans' Land offer was not sufficient to take care of certain outstanding encumbrances which they agreed to assume. So that, in effect, it made their offer at that stage $853,817.22. Then it wasn't noticed for some time after, but when the properties were added up, it was found there were 769 with an error in addition of one, and there were 27 properties in which there was no Jap interest and there were 41 properties which were withdrawn from the offer, because, at that time, there were certain reasons why the Custodian could not convey title. So that 69 parcels were withdrawn, leaving 700 parcels, with a valuation of $802,988.00, and the price at which they were pro-rated was $792,265.22.

Then, on the completion of that offer, there was a second offer for another 42 properties, and one of those was withdrawn, and the Soldiers' Settlement valuation on those 41 properties was $44,890.00, and the committee accepted a sale price of $43,991.00, which was in practically the same relationship of percentage less, 1.9 or 2 per cent., somewhere in that neighbourhood.

So that the total offer for 741 parcels on the Soldiers' Settlement valuation was $847,878.00, and the price which the Custodian received was

$836,256.22, and I have just made the notation that those figures can be seen in the minutes of the Public Accounts Committee, No. 7. That is all, sir.

(STATEMENT MARKED GENERAL EXHIBIT NO. 34)

THE COMMISSIONER: Yes, Mr. McMaster.

MR. McMASTER: My lord, subject to your lordship's approval, counsel have agreed that I should carry the main cross-examination.

THE COMMISSIONER: Yes; very well.

MR. McMASTER: Subject to the right of those who represent respective clients perhaps adding to my cross-examination. But I will say this, that we have agreed amongst ourselves to try to keep the cross-examination down to one cross-examination, as far as possible.

THE COMMISSIONER: Yes, that would be helpful.

MR. McMASTER: In order to cut down the length of these proceedings.

MR. VIRTUE: I would like your lordship to understand if some other counsel feel that some particular matter is not covered fully, he will be at liberty to cross-examine.

THE COMMISSIONER: That is satisfactory.

CROSS-EXAMINATION BY MR. McMASTER:

Q Mr. Shears, you appeared before the Standing Committee on Public Accounts of the House of Commons at various dates between the 8th day of May, 1947 and the 24th day of May, 1947, is that

correct? A. Yes.

Q And you gave evidence before that Committee?

A Yes.

Q The evidence that you gave before that Committee was correct?

A It was correct, to the best of my knowledge and belief.

THE COMMISSIONER: I take it you are purporting to cross-examine on the basis of the published Report of the Committee?

MR. McMASTER: Yes. There will be frequent references to it, my lord.

MR. HUNTER: My lord, so far as the Public Accounts Committee is concerned, the evidence I led in chief has not touched it. Unless this is being used purely to discredit some statement that has been covered in my examination-in-chief, it doesn't strike me that it is something on which cross-examination would be relevant.

THE COMMISSIONER: It is not for me to determine at this moment whether your objection is well taken or not, Mr. Hunter.

MR. McMASTER: My lord, with regard to my friend's statement--

THE COMMISSIONER: You do not need to deal with it. Go on with your cross-examination. We can meet the situation that your friend raises, if any difficulty should arise.

MR. McMASTER: I propose, my lord, to deal first with the Veterans' Land Act transaction, and in doing so,

first of all to try to deal with the sequence of events that happened, and then subsaquently to cross-examine with respect to certain matters that arise out of that.

Q Mr. Shears, in the evidence that you gave before this Commission yesterday and the day before, you were very helpful in a lot of the details that you presented, and you went into considerable detail with respect to documents, and that type of thing. It appears to me from the evidence given on the Veterans' Land Act, that it is a rather sketchy picture. Now, would you tell me whether you feel that is so. Were you crowded for time?

A No. I felt I had given fairly full particulars in regard to the Veterans' Land Act in any matter in which I was personally concerned.

THE COMMISSIONER: Does your question relate to the evidence given before the Public Accounts Committee?

MR. McMASTER: No. Given before this Commission, my lord.

Q I understand that there were minutes taken of the meetings of the Advisory Committee at New Westminster. Is that right?

A That is true.

Q Are those minutes in your possession?

A Yes.

Q But you made no reference to those minutes yesterday, or made no attempt to provide them to the Commission.

MR. HUNTER: They are not evidential, my lord. I don't

see why he should produce them.

MR. McMASTER: Q: You were present at all the meetings of this Advisory Committee for New Westminster--the Rural Advisory Committee I guess is the proper description of it?

A Yes, I was present at all their meetings, some 36 in number.

Q Who acted as Secretary at those meetings?

A At the first meetings, I think I mentioned in my evidence yesterday that the two Committees acted on somewhat dissimilar basis.

THE COMMISSIONER: Q: Now, direct your mind to the question: who acted as Secretary?

A I was asked to record the minutes of the Meetings.

MR. McMASTER: Q: And you did so record them?

A I did so record them.

Q And you recorded those minutes accurately, did you?

A I consider I did them very accurately.

Q Now, Mr. Shears, yesterday you suggested that the consideration of the appraisals of the Veterans' Land Act to the Custodian by the Rural Committee began on May 17th, if I understood you correctly. Now, is that correct?

A The first offer that was received was at the meeting of the Rural Advisory Committee. That was on May 19th, or May 17th.

Q May 19th, actually, I think that is clear?

A Yes.

Q However, the possibility of such negotiations had previously been discussed by the Committee?

A Yes, that is true.

Q And I refer to page 206 in Volume 9 of the Public Accounts Report, my lord. Now, witness, at page 206, there appears a question at the top of the page by Mr. Jannick.

A The top of page 206?

Q The third question at page 206.

A Yes.

Q And then, further down the page, Mr. Jannick proceeds to quote from minutes of the Committee, at page 3 of those minutes.

A Yes.

Q Beginning: "I wish to read an extract from the minutes as follows:".

A Yes.

Q Then he reads the following: "Mr. McPherson . . . formerly-owned Japanese land." And then Mr. Jannick comments that he is turning to page 8 of those minutes, and he states that: "Mr. McPherson said it was his understanding.....would be a reasonable price."

Now, before I proceed, I am going to make further reference to the minutes that were recorded here. Were the minutes available for the Standing Committee on Public Accounts at the time you were asked these questions?

A The minutes were asked for and obtained prior to this particular meeting.

Q In the reports of the minutes that appear in Volume 9 of the Minutes of Proceedings and Evidence

of the Public Accounts Committee, are the reports of the minutes there accurate reports from the minute books of that committee?

A I haven't checked them word for word, but I would say they were.

Q At least, in substance, they are correct?

A In substance, they are correct.

Q Now you agree, then, that that minute is the minute of what occurred at the meeting of March 15th? A. Yes.

Q I would like to turn to page 222 of Volume 9 of the Public Accounts Reports referred to, and Mr. Fleming, there, in the first half, refers to the minutes of the meeting of March 15th, 1946. That is the same meeting, I take it?

A Well, I am not sure of the date.

Q Now, Mr. Fleming had the minutes in front of him when he asked you that question, or filed that material, is that right?

A Yes.

Q In any event, that is a report, in substance, of the minutes of the meeting of the Rural Advisory Committee?

THE COMMISSIONER: You are now referring to what?

MR. McMASTER: To the first one of those two references, my lord, at page 222.

A This part, "In order that the work of the Committee"--?

Q I will just read it: "In order that the work . . . . purchasers and not vendors." Now, that is a proper minute of the meeting of the Rural Advisory Committee?

A In substance, certainly, and probably word for word.

Q I would like to ask you, with regard to page 226 of Volume 9, where, in the middle of the page a further quotation from the minutes of the meeting of March 15th, 1943 appears: "The position of the Soldiers' Settlement . . . . .with such lands."

Now that is a proper recording of a minute of that meeting?

A Yes, that is correct.

Q I would like to refer you to a meeting of March 18th. I refer you to page 207 of the Public Accounts Reports, at the foot of the page, where Mr. Jannick read from the minutes: "Mr. McPherson reported . . . .rehabilitation of returned men." Is that a proper report of the minutes of the Rural Committee meeting?

A I would say that it was.

Q I would like to turn to page 208 of the Public Accounts Committee--I am sorry, it should be page 209, I think. Yes, at page 209, at the foot of the page, it refers to page No. 17 in the minutes: "Mr. Barnett indicated . . . . . is not binding upon his department."

Now, is that a proper report of a meeting of the Rural Advisory Committee?

A Yes.

Q Can you tell me the date of that meeting?

A I can only do so by reference. I imagine it would be the meeting of March 18th.

Q I see at page 207 of the Public Accounts Committee Report--the reference I have already referred to was page 16, on the 18th of March. This is page 17. You believe this is at that meeting?

A I believe it is at that meeting.

Q I would like to turn to page 210 of the Public Accounts Reports, and at the top of the page, the question refers to page 18 of the minutes in the following words: "Mr. Barnett asked Mr. McPherson . . . . .in each municipality."

Now, I draw attention at this point, witness, to the fact that later the Chairman suggested that paragraph should be completed, and it is completed at the foot of the page, so I would like to read it, in following that. I should have drawn attention to it before. I think I should read the actual paragraph, and then proceed back up to the top of the page: "Mr. Barnett asked Mr. McPherson . . . . .in each Municipality."

Then, at the bottom of the page: "Mr. Barnett asked Mr. McPherson . . . . . ."

Oh, I see, they have repeated it.

A It is a repetition.

THE COMMISSIONER: Just before you go on, I see no purpose in loading up the transcript with all these quotations when they can be dealt with simply by reference. Unless counsel particularly desire the quotations to be carried into the transcript, I propose to direct the Reporter not

to do so.

MR. McMASTER: We are in this position, my lord, that neither my learned friend nor myself desire to put these Public Accounts Reports in as evidence. Now, if the Commissioner wishes, in order to advise himself, to have them filed, not on behalf of either counsel, then reference could be made to them by page.

THE COMMISSIONER: That is perfectly satisfactory. I do not propose to put them in as an Exhibit, but I can see no purpose in loading up the transcript with all those quotations.

MR. HUNTER: As far as I can ascertain from the cross-examination up to this point, my lord, Mr. McMaster merely wants to establish the accuracy of the reports of the Public Accounts Committee or the minutes published. Surely the proper way to do that is to ask for the production of the minutes, if they have any evidential value, and have them put in. I have no objection to them being produced to the Commission, but it is a waste of time putting in a lot of quotations.

THE COMMISSIONER: That is my impression. The minutes are offered to you, Mr. McMaster.

MR. McMASTER: I appreciate the offer to examine them, but I don't know why my learned friend didn't give them to me earlier.

THE COMMISSIONER: It is not for me to read your mind. You could have asked for them.

MR. McMASTER: In any event, I don't want to be put in

the position of putting the minutes of the Committee in. I might like to refer to pages of the minutes of the Committee.

THE COMMISSIONER: All I am dealing with is the question of incorporating these quotations into the formal transcript, and unless any counsel has objection, I propose to direct that the transcript simply refer to these quotations by reference to the pages of the Public Accounts Committee Report.

MR. McMASTER: My lord, we are agreeable to that. I presume, however, I will have to read them to the witness.

THE COMMISSIONER: That is quite all right. All I was concerned about was loading up the transcript unnecessarily. You will govern yourself accordingly, Mr. Reporter, please.

MR. McMASTER: I will refer to page 210, and this time I will try to do it in one reading. At the bottom: "Mr. Barnett . . . . .total purchase price." And that is an accurate report of the minute of the meeting dated March 18th?

A I believe so, yes.

Q Then the minute goes on, at the top of page 210, going back: "Mr. McPherson stated . . . . ."

THE COMMISSIONER: Where is that?

MR. McMASTER: If you refer to page 210, my lord, you will notice that whoever asked the question at the top of the page didn't give the full paragraph. He stopped after--

THE COMMISSIONER: "Municipality".

MR. McMASTER: --"Municipality." And the Chairman then requested him to put in the full paragraph, which he did. I am reading in the full paragraph.

THE COMMISSIONER: You are reading the second paragraph?

MR. McMASTER: Yes. "Mr. McPherson stated . . . . . to do so." Now, is that a proper report of the minutes of a meeting of theAdvisory Committee?

A Yes.

Q And presumably that meeting was on March 18th?

A I think it was at that meeting, yes.

Q I would like to turn to page 211, again at the foot of the page. No, I am sorry--in the middle of the page. There is a quotation there: "Mr. McKenzie stated . . . . . in their property". Is that a proper report of a meeting of the Rural Committee? A. Yes.

Q Can you tell me what meeting that was, Mr. Shears? That is at page 22.

A I couldn't be positive, without reference. I would be inclined to think it was at the same meeting.

Q I suggest to you that it was the meeting of May 24th, 1943.

MR. HUNTER: The witness has said he doesn't know.

THE COMMISSIONER: The minutes can be produced for you, Mr. McMaster.

MR. McMASTER: Q: Did I understand that the witness has the minutes with him in court, or are they at the office?

A I have them with me.

Q In court? A. Yes.

Q Will you look at the minutes, then, and ascertain what date that was?

A I am afraid the page reference must be entirely different from what I have.

Q You can't say, at the moment?

A I can't say at the moment;they are here.

Q Now, I would like you to look further down the page, on 211, at a further quotation from the minutes, and the person asking the question states he is reading from pages 25 and 26, and quotes as follows: "Mr. McPherson outlined. . . . . .were not made." Then he refers to page 26 of the minutes, the offer covering 269 parcels, and later on the page, "The revenue . . . . . Soldiers' Settlement of Canada." Now, is that a true report from the minutes of the Rural Committee?

A In my belief it is, yes.

THE COMMISSIONER: The question would be more accurate if you asked "Is that an accurate quotation from the minute book".

MR. McMASTER: Is that an accurate quotation from the minutes of the Rural Committee?

A Yes, I believe it to be.

Q Do you know what date that meeting would be?

A That would be--I follow what I read here, and I believe it to be true--the third meeting, May 19th, 1943.

Q Now at that point, witness, I draw your attention to the questions and answers at page 212, which

appeared immediately after the quotation I have just read to you from the minutes. Were you asked "I presume when . . . . . .A. Precisely." Was that answer correct? Were you asked that question, and did you give that answer?

A Yes.

Q "Then were the members . . . . .opposite." Were you asked that question, and did you give that answer, at the hearing of the Public Accounts Committee? A. Yes.

MR. HUNTER: My lord, I hate to raise points of this kind, but it seems to me we are wasting a lot of time. If he could just ask the witness if what he stated there is correct, that would be sufficient. The way he is putting it, it is really a challenge of the reporting of the Public Accounts Committee."

MR. McMASTER: If my friend is willing to concede he made all those answers, all right.

THE COMMISSIONER: I will put it to the witness, myself.

Q Mr. Shears, you gave evidence before the Public Accounts Committee and have read the report of the evidence since, have you not?

A Yes, I have.

Q Is there anything in that report of the evidence you gave before the Committee--the Public Accounts Committee--that you now wish to change, or to correct?

A I haven't read it for many months, but when I first read it, there was nothing that appeared to

me that wasn't correct. If it were possible, sir, I would like to have the possible reservation that if there is something, especially from quotations, that was not accurate--I haven't read these for several months--but as I say, when I first read them, they appeared to me to be an accurate statement of the questions and answers that were given.

Q I will make this direction then, that by tomorrow morning, I would ask you to examine the report of your evidence before the Public Accounts Committee, and say whether there is any part of it that you wish now to change or to correct.

A Thank you, sir; I will be glad to do that.

THE COMMISSIONER: Does that meet the situation, as far as you are concerned, Mr. McMaster?

MR. McMASTER: I think it stops the part of my cross-examination that I had prepared. There is no point in proceeding until I know what his answer is.

THE COMMISSIONER: You have his answer already, that previously he did not observe any feature of the Public Accounts Report that he questioned, and now, to be abundantly sure, he desires to read the report again. I think you can proceed on the assumption that the report of the Public Accounts Committee is accurate.

MR. McMASTER: I would like to consult with other counsel on that. May we adjourn for a few moments?

THE COMMISSIONER: All right.

(PROCEEDINGS RESUMED AFTER A SHORT RECESS)

FRANK GOULD SHEARS resumed the stand and testified further as follows:

MR. McMASTER: My lord, I have agreed on the proceedings suggested.

THE COMMISSIONER: Very well.

MR. McMASTER: I would like to refer to page 212 of the Public Accounts Committee, to the second quotation from the minutes on that page. It says on page 27: "The Chairman suggested it might be well . . . . .A. Yes." And the letter, my lord, I draw attention that a copy of the letter has been filed as an exhibit already.

CROSS-EXAMINATION BY MR. McMASTER (CONTINUED):

Q Now, witness, I understand the letter that Mr. Barnett referred to there is his letter of May 17th?

A Yes, I believe so.

MR. HUNTER: Exhibit 29.

MR. McMASTER: 1942. Exhibit Number which?

MR. HUNTER: 29.

THE COMMISSIONER: That has already been tendered?

MR. HUNTER: Yes.

MR. McMASTER: Q: And the Committee met on May 19th?

A Yes.

Q Now, can you tell me why it was that that letter wasn't presented to the Committee on May 19th?

A Well, can I refer to--wasn't it presented on the 19th?

Q Your evidence yesterday said it wasn't, and the evidence I have just referred to in the Public Accounts Committee indicates it was presented on May 24th. If I recall your evidence yesterday correctly, you said Mr. McPherson made some report that there might be an offer, or there would be an offer from the Soldiers' Settlement Board.

THE COMMISSIONER:Q:Are you able to say why it was not presented?

A No, I am not able to say.

THE COMMISSIONER: Is there any particular significance in it?

MR. McMASTER: Well, I don't know, my lord, but if he is not able to say, it doesn't help very much.

Q Now, witness, I take it that at that meeting of May 24th, the report of the sub-committee, consisting of Messrs. McKenzie, Mott and Yamaga, was presented?

A Yes.

Q I refer you to page 223 of the Public Accounts Committee, the two quotations from the minutes at the top of the page: "Mr. McKenzie said . . . . .to be made." And then, three lines down, "He thought that each . . . . .from Mr. Barnett."

I would like to turn to page 214 of the Public Accounts Report, just the one question, the fourth question from the top of the page: "And no decision . . . . . A. No, not at that meeting."

A What are you reading from now?

Q I am sorry; I am wrong. It is 214, the quotation

"from page 32 of the minutes" that I wish to refer to--the first quotation: "Page 32 of the minutes . . . .could have been somewhat higher."

THE COMMISSIONER: This is all substantially in line with what was said by the witness on examination yesterday.

MR. McMASTER: My lord, I would submit two things, one, this is a much more complete picture of the negotiations, and the other that there is information contained in these minutes which was not referred to by the witness yesterday.

MR. HUNTER: My lord, if he wants the minutes put in, surely they can be filed for what they are worth. There is no objection to that. This is a Commission, and we are bound by the Rules of Evidence here.

THE COMMISSIONER: I offered that suggestion a little earlier, and he did not adopt it.

MR. HUNTER: The Public Accounts Committee Reports haven't been filed. He is just reading from them, and he is not asking questions.

MR. McMASTER: As I indicated, my lord, at the beginning of my cross-examination, I wanted to get the picture of this clearly, and then go after specific points with the witness.

THE COMMISSIONER: Very well.

MR. McMASTER: Page 214, the second quotation from the minutes: "At this point, representatives . . . . .comprise $850,000.00."

Now, at page 223, an extract from the minutes of May 24th: "Mr. Godfrey outlined . . . . . very fair."

THE COMMISSIONER: Where are you reading from?

MR. McMASTER: Page223, my lord, the second quotation from the bottom: "Mr. Carcross also stated . . . . . .were low land."

Then at page 215, just the one question, the fourth question down: (reading).

Q Witness, that refers to the meeting of May 24th, is that correct?

A I can't say, by looking at page 215.

Q Perhaps if you will look back at 214--well, I will put it to you, was any decision made at the meeting of May 24th?

A The decision was to reject the offer.

Q And was any other decision made with respect to this offer? A. No.

THE COMMISSIONER: Q: That was the offer of$800,000.00, was it?

A Of $750,000.00.

MR. McMASTER: Q: Was there any consideration of the offer of $800,000.00?

A That was also rejected.

Q Were any other decisions made at that meeting in respect to this matter?

A I don't recollect that there were any other decisions made.

MR. McMASTER: I would like to turn to page 216, my lord, in the Public Accounts Reports. I am sorry,

my lord, it is at page 215, the letter dated May 26th, 1943, from Mr. Yamaga to the Chairman of the Advisory Committee (reading).

THE COMMISSIONER: Mr. McMaster, would it serve your purpose, in order to save putting thePublic Accounts Committee reports in, to have the witness state that these minutes of the Public Accounts Committee are correct, and then deal with the questions that you wish to raise in argument, rather than go all over this ground again? I can see no purpose in this cross-examination, unless you wish to lay a foundation for argument later.

MR. McMASTER: While I wish to lay a foundation for argument, my lord, I also wish to lay a foundation for the questions which I want to ask the witness. In other words, I want, my lord, to remind him of certain things that went on, and then to ask him questions with regard to it.

THE COMMISSIONER: Would it not be sufficient to your case to have these Public Accounts Reports go in, so as to be available for the purpose of your subsequent cross-examination. You seem to be taking an interminable time on something that, at the moment, I cannot see has very much bearing on the picture, unless it is on argument.

MR. McMASTER: Then, my lord, if your lordship directs,--

THE COMMISSIONER: No, I would not do that.

MR. McMASTER: I will make my reference to the pages and the items I want included.

THE COMMISSIONER: I am not going to stop your cross-examination, unless it becomes too protracted, but I am

simply pointing out to you that we are faced with an extraordinarily long investigation, in any case, and that this line of cross-examination does not appear to me to be particularly helpful, from my point of view.

MR. McMASTER: I am afraid I am aware of that, my lord.

THE COMMISSIONER: However, go ahead.

MR. McMASTER: If your lordship please, I will refer to the page reference, without reading the full text or questions or answers, as the case may be, or minutes.

The next reference I would like to make is to page 216, the letter by Mr. W. G. McPherson to Mr. I. T. Barnett, dated May 27th, 1943, and the letter from Mr.Barnett to Mr. McPherson which appears immediately thereafter, dated May 25th, 1943.

Q Now, witness, the last letter I referred to refers to an offer of $825,000.00, with adjustments, on the same basis as originally proposed. Was that offer ever communicated to the Advisory Committee?

A The offer, itself, was never submitted to the Advisory Committee. It was referred to when an increased offer was being presented.

Q So that it was never dealt with by the Advisory Committee?

A It was never dealt with by the Advisory Committee.

MR. McMASTER: Next, my lord, is page 219--page 117, sorry. The letter from Mr. Murchison to Mr. McPherson, May 29th, which has already been filed. I am sorry I didn't draw attention to that.

Q Now, witness, I would like to refer to that letter of Mr. Murchison to Mr. McPherson, of May 29th, 1943, to one paragraph of it, the second paragraph (reading).

Now, was it the Committee's opinion that the lands were worth approximately $1,250,000.00?

A They indicated no opinion along those lines, to my recollection.

Q I point out to you the Committee arrived at a figure of $1,258,563.00 for these lands.

A That is not my recollection. My recollection is that is municipal assessed values of the property.

Q I would point out, if I am not mistaken, that is a figure slightly larger than the municipal assessed values. Do you recall the Committee arriving at such a figure?

A I recall the question of municipal assessments was considered, and the Veterans' Land Act had one figure, and I had another figure which wasn't exactly the same, but it was approximately the same, and it may be the figure you refer to was mine or theirs.

Q Is it a case that you don't recall, or do you specifically deny that the Committee arrived at that value of $1,258,563.00 on those lands?

A I don't recollect that they arrived at any such figure.

Q Did the Committee arrive at any figure, then, as to what the real value of these lands were?

A There was a suggestion it would be approximately the amount of the Soldiers' Settlement valuation, which was $867,000.00, although the round figure of

$900,000.00, I believe was mentioned.

Q Mr. Barnett attended a large number of these meetings, is that not correct?

A Mr.Barnett didn't attend any of the meetings, in my recollection.

Q Now, I have already referred to a number of minutes in which it refers, or seems to refer, to Mr. Barnett being present at those meetings. Is that not correct?

A That is not correct.

Q Have you any idea where Mr.Barnett would get the idea that the Vancouver Committee, as he calls it, considered the worth to be approximately one and one-quarter million dollars?

A I have no idea.

Q If Mr.Barnett wasn't personally present at these meetings, at how many meetings were representatives of the Soldiers' Settlement Board present?

A At one meeting.

Q And that was the meeting of May 24th, 1942, at which time you had received the report of the sub-committee?

A They were not there during the reception of the report of the sub-committee. They were there later in the meeting.

Q You say that at no time did the committee consider the worth of this property to be more than the appraised value put on it by the Soldiers' Settlement Board?

MR. HUNTER: That is not what he said, my lord.

THE COMMISSIONER: I do not recall the witness having said that. He did mention a figure of $900,000.00 as having been discussed in the Committee.

MR. McMASTER: Q: Do you say, witness, at no time did the Committee estimate the worth of those lands as being more than $900,000.00?

A I have no recollection of that being discussed in the meetings.

Q I draw your attention, then, to page 216, which I have already referred to, to the letter written by Mr. McPherson to Mr. Barnett. In the second paragraph, he states: "It is, of course, ... 10 per cent. for cash."

A That would be approximately $900,000.00.

Q Yes, but the reduction is to be for cash. Apparently the Committee did consider a value of a million dollars, if Mr. McPherson's information is correct. You notice it is a possible reduction, for cash?

A There is nothing I can state in regard to that.

Q Was Mr. McPherson instructed to write that letter, by the Committee?

A I don't know.

Q You don't know,--or do you not recall?

A I don't know.

Q Now, was any attempt made to replace Mr. Yamaga on the Rural Properties Committee, when he resigned?

A No, there wasn't.

Q No attempt was made, either to get a Japanese to act, or to place another Occidental on the Committee?

A No.

THE COMMISSIONER: I think you had better clarify your last question. No attempt made by whom?

MR. McMASTER:Q:By the Custodian, or by the Committee?

A The answer would still be no.

Q With respect to both?

A With respect to both. Mayor Mott, of course, had been included on the Committee, but before that date.

MR. McMASTER: I would refer, my lord, to page 218, the minutes reported on that page, on the second half of the page.

THE COMMISSIONER: Just before you go on to deal with that, if you have no objection, I would like to pursue the question of the million dollar offer further. Will you read the second paragraph of the letter found at page 216. I point out that Mr. McPherson states that the Committee indicated they would accept an offer of a million dollars.

MR. McMASTER: I pointed that out to the witness, my lord.

THE COMMISSIONER: I do not think it was as clearly pointed out as it might have been. I will follow it up, if you like.

Q On page 216, if you observe the second paragraph, Mr. Shears, Mr. McPherson says, "I would advise you . . . . .10 per cent. for cash." Is Mr. McPherson's statement there made correct?

A Yes sir. And that leads you to the $900,000.00 figure I had in mind, because a million dollars, with 10 per cent. reduction--

Q No, you do not follow me. Mr. McPherson refers

to an offer of a million, with a possible reduction of 10 per cent. for cash. That means the Committee did consider instances of an offer of a million dollars, with a possible reduction of 10 per cent. for cash. Was it considered on the basis of a million dollar offer, or a $900,000.00 offer?

A My recollection, definitely, was $900,000.00, because the whole proposition was on a cash basis.

Q Have you any minute on that subject?

A I will look, sir. If you will give me a minute, I will gladly do that.

Q It must be something that transpired on May 24th?

A Yes sir. The excerpt from the minute reads: (reading).

MR. VIRTUE: Might I ask, would Mr. Shears indicate the page in the minutes on which that is found?

THE WITNESS: That is page 5 of the Official Minutes of the Third Meeting of the Advisory Committee on Rural Properties, on the 19th May, 1943.

THE COMMISSIONER: All right, proceed, Mr. McMaster.

MR. McMASTER: My lord, I refer to 218, and the minutes on that page which set out the basis on which the Committee approved the offer of $850,000.00.

Q Now, Mr. Shears, did you prepare that minute?

A This is on page 218?

Q Yes, page 218. It would be the second half of the page.

MR. HUNTER: I think, to make it even simpler, my lord:

Q Did you prepare all these minutes, Mr. Shears?

A I prepared all the minutes from the third meeting onwards.

MR. HUNTER: Does that answer your question, Mr. McMaster?

MR. McMASTER: Q: Was this the third meeting?

A Yes.

Q Could you tell me who drafted the minutes of that meeting--the third meeting?

A I drafted those.

Q Oh, I am sorry--you drafted those. This is your draft and report of the discussion and the resolution passed at that meeting?

A That was my opinion of the discussion as it took place, which was written into the minutes.

Q And was this a resolution that was passed by the Committee, or was it just your interpretation of the discussion and decision?

A It was my interpretation of the discussion and decision.

Q Now, it is suggested, at the end of that minute, at the top of page 219, that the vote on this resolution was unanimous. What resolution does that refer to--the acceptance of the offer?

A The acceptance of the offer for $850,000.00.

Q And that is all the resolution was?

A May I ask you, first, is the question whether the specific clauses were discussed at the meeting?

Q The question is whether the specific clauses were set forth and referring to the vote, were included in a resolution drafted at the meeting?

A The points referred to in this minute were all

dealt with by the members of the Advisory Committee previous to the vote being taken and the unanimous vote being given. That is to say, at this particular meeting, these reasons were discussed among the Committee. I merely transcribed, to the best of my knowledge, what the result of the discussion was that had taken place.

Q And what was the actual resolution that was put to the Committee?

A It wasn't put in the form of a written resolution, but it was after considerable discussion of those facts, with the facts in the minds of all the members of the Committee, that a vote was taken. It speaks of the word "resolution", but I wouldn't give it that.

Q I see at 216, it was moved by Mr. McKenzie and seconded by Mr. Menzies, and then proceeds to set out what appears to be a resolution. Now you say that wasn't the resolution?

A Oh, that definitely was the opinion of the Committee. I can't recollect whether it was drafted in full, or whether only the points covered were taken care of at that meeting.

THE COMMISSIONER: Would you bring out who were present at that meeting?

MR. McMASTER: Q: Yes. Who were present at that meeting?

A Present at the meeting of the 24th of May, Judge David Whiteside, the Chairman, Mr. D. E. McKenzie, Mr. Harold Menzies, Mr. Y. Yamaga, Mr. F. G. Shears, Acting-Director of the Custodian's Office--

Q And who else? Mr. Shears and who else?

A Mr. G. W. McPherson.

Q You say Mr. Y. Yamaga was present at that meeting?

A Mr. Y. Yamaga was present at that meeting, yes.

Q Are we referring to the right minute, because I understood Mr. Yamaga had resigned?

A Mr. Yamaga was there on the 24th of May.

Q This is the meeting of June 1st we are referring to. Who were present at the meeting of June 1st?

A At the meeting of June 1st, Judge David Whiteside, Mr. D. McKenzie, and Mr. Harold Menzies.

Q And yourself?

A And myself, and Mr. K. W. Wright.

Q Mr. Wright is counsel?

A The local counsel to the Custodian.

MR. HUNTER: Could we have that clear? Is that the meeting where the $850,000.00 offer was made?

THE CHAIRMAN: That is what I would like to know. This is what purports to be the minute that was passed, found at page 218. At what meeting was that minute passed?

MR. McMASTER: Q: Witness, at what meeting was what purports to be a resolution shown at page 218 of the Public Accounts Committee--at what meeting was that passed?

A That was at the meeting of the 1st of June, 1943.

MR. McMASTER: I refer, my lord, to page 219, the letter from the Honourable M. A. McCarty, Secretary of State, to Gordon Murchison, dated June 23rd, 1943.

Q I draw your attention, witness, to the fact that that

letter of June 23rd reported at page 219 of the Public Accounts Committee, changed the deal which the Advisory Committee accepted, or approved, rather; I might make that clearer by saying it changed it with respect to the date at which adjustments were to be made.

A Yes, that is true.

Q The offer which the Advisory Committee advised the Custodian to accept was for $850,000.00, with adjustments, as at the 31st May, 1942?

A Yes, that is correct.

Q And the Advisory Committee wasn't consulted as to the change which was made whereby the adjustments would be dated back to the 1st of January, 1942?

A No, I don't believe they were consulted.

Q Now, I put it to you, witness, without going into all the figures, that the change in the date of adjustments made a difference of $25,000.00, and an adverse difference of $25,000.00 from the Japanese owners' point of view.

THE COMMISSIONER: That is in round figures?

MR. McMASTER: In round figures.

A I believe that would be about correct.

Q So that the deal which was finally made was, in figures, at least no better, or very slightly better, if at all, than the offer of $825,000.00 with adjustments at May 31st, which had been made, and was not referred to the Committee?

A I think that is substantially correct.

Q Now, I don't suppose you have any personal knowledge

as to why that change was made?

A No. The instructions are in the Exhibit which has just been put in this morning.

Q Page 220 of the Public Accounts Report, the minutes appearing in the middle of the page, there is a reference to the meeting of January 13th, 1944. Now, I take it, from that minute, that it indicates that these properties were still withheld from public sale until January 13th, 1944?

THE COMMISSIONER: Would you refer me to the page of the minute?

MR. McMASTER: Page 220, the minute about a third of the way down the page.

THE COMMISSIONER: Yes, I see it.

MR. HUNTER: Which lands are you referring to?

MR. McMASTER: To the lands which originally had been placed under the control of the Veterans' Land Act for appraisal.

MR. HUNTER: That was the 19th January, 1943?

MR. McMASTER: That is not my question.

THE WITNESS: I don't get the question yet; I am sorry.

MR. McMASTER: Q: Let me put it this way, witness: I put it to you, in the face of that minute, that it was the policy of theCustodian--

A Which minute--at what page?

Q Page 220.

A Where Mr. Jannick speaks?

Q Yes. "Mr. Shears referred to a recent visit he had made."

A Yes. And the question is--?

Q I put it to you it was the policy of the Custodian to withhold those lands?

MR. HUNTER: Which lands?

MR. McMASTER: Q: The farm lands which had not been sold to the Soldiers' Settlement Board in the original, that it was the Government's policy to withhold those until it found out whether the Soldiers' Settlement Board wanted some more.

A I don't think I can answer that specifically.

THE COMMISSIONER: Do you extract that conclusion from the minute?

MR. McMASTER: Well, I extracted it as a likely possibility, my lord.

MR. Hunter: My lord, why not have Mr. McMaster ask the witness whether he has knowledge of whether or not that was the policy.

THE COMMISSIONER: In effect, that is the question. If I follow you, Mr. McMaster, I think that is a proper inference to draw from that minute, if that is what it is, is that all Japanes lands had been withheld from sale, pending the conclusion of the deal with the Veterans' Land Act.

Q Am I right in that?

A I had received no instructions to liquidated properties until the conclusion of this deal.

Q Had you received any instructions to refrain from liquidating any of the Japanese farmlands, pending the V.L.A. deal?

A No, not specifically pending on the V.L.A. deal. My general instructions were that the policy of

the Custodian up to that time was not one of liquidation.

MR. HUNTER: Q: Until what time?

MR. McMASTER: Q: This is January, 1944, I draw your attention to, Mr. Shears.

A What is January, 1944?

Q That is the date of the meeting of which this is alleged to be a minute?

A There is no minute that I can see.

Q It refers, just above there, to the question: "On page 64, there is one little paragraph I would like to put on the record . . . . ." and then he reads it.

A I would like to refer to January 13th, 1944, if I may. I think there must have been some confusion in the minds of those who were asking the question. The only thing dealt with at all in regard to the Veterans' Land Act was a minute of a meeting held at New Westminster, on Wednesday, November 24th, (reading minutes). And that is the additional offers which appeared on that exhibit which I have put in.

Q Those were accepted January, 1944?

A January, 1944. Those particular properties, and this other reference at Ottawa--I am sorry--

Q You seemed to understand it at the time it was put to you at the Public Accounts Committee. Did you take a trip to Ottawa, and were you given instructions with regard to the liquidation of the balance of land which the Soldiers' Settlement Board

had not taken over in the first offer, or the subsequent offer?

A Would you repeat your question?

Q Did you take a trip to Ottawa at about the end of 1943, or the beginning of 1944?

A Yes, I believe so. That was the date.

Q And did you receive instructions, when you were in Ottawa, with regard to what you were to do with the balance of the Japanese farm lands which the Soldiers' Settlement Board hadn't purchased, or were in the process of purchasing?

THE COMMISSIONER: May I have your minutes for a moment, Mr. Shears?

MR. HUNTER: My lord, I don't quite see the relevancy of this question. As I understand it, no subsequent lands were purchased by the V.L.A. Accordingly, the only inference, surely, which can be drawn is, even if he did not receive instructions, it would be to the benefit of the Japanese owners, due to the rising market.

THE COMMISSIONER: I am not going to interfere with the cross-examination. I presume that Mr. McMaster has some purpose in putting the question. I will allow it.

Q You understand the question, do you?

A I am sorry, not to be clear. It is confusing. Is it the difference between the V.L.A. deal and other property up to the time the Veterans' Land Act deal had been consummated? As a general policy, there was no policy as to the sale

of other property, but the policy of liquidation was indicated to me, I believe, in May of 1943, just about the time of the deal with the V. L. A.

MR. McMASTER: Q: And with respect to urban properties, --city property, was that policy implemented?

A Yes, shortly after, definitely.

Q With regard to farm property, in May--was the indication given, in May, that this policy of liquidation was to apply generally, or just to urban property?

A I see the point. It was to apply generally, but there were no restrictions to minimize on it, and that the properties were to be advertised, and to be left entirely to the Advisory Committees and myself, and we proceeded, as a matter of policy, to sell the Greater Vancouver properties first, and, as I have indicated--

Q Witness, as a point of fact, no farm properties were sold, other than to the V.L.A. prior to January 15th, 1944?

A Unless the Japanese owner agreed to the sale.

Q By the Custodian?

A Not by the Custodian. They were sold by the Custodian, but with the consent of the Japanese owner.

Q Those were the only exceptions?

A Those were the only exceptions.

Q So these properties weren't offered to the public until after January 13th, 1944?

A That is true.

Q I put it to you that it was the policy of the Government to reserve these lands to give the Soldiers' Settlement Board the first opportunity of taking what they chose out of them?

THE COMMISSIONER: Farm lands?

MR. McMASTER: Q: Yes, farm lands.

A I believe that to be so, yes.

Q And this minute is an indication, if it is a correct minute, but, in any case, it is an indication, as at January, 1944, the Government changed the policy, because the Soldiers' Settlement Board had got all it wanted?

A Yes. The only thing I am questioning, as I say,--

Q Never mind the minutes, for a minute.

A But you are referring to it as a minute.

THE COMMISSIONER: Q: Mr. Shears, I would refer you to page 6 of the minute of this meeting of January 13th, from which the quotation found at page 220 of the Public Accounts Committee Report is taken.

A Thank you, sir. I didn't see this: "Mr. Shears referred to"--

Q You do not need to read it out. We have all had it two or three times.

A That is true.

Q Now, will you answer counsel's question; was the Government policy changed at that time? That puts the question you wish?

MR. McMASTER: Yes, my lord.

A Yes.

Q And prior to that time, the policy was to withhold farm lands from public sale, in consequence of the interests that the Soldiers' Settlement Board might have?

A That is my belief, yes. That was my belief, yes.

MR. McMASTER: Q: You have given evidence that, subsequent to the sale of the 741 parcels, or rather, as your statement shows it, at 700 parcels, in June of 1943, that you subsequently sold certain other parcels, 41 in number, to the Soldiers' Settlement Board? A. Yes.

Q I refer next to page 224, to the letter from Mr. Shears to Mr. I. T. Barnett, dated October 30th, 1943. Witness, what other correspondence was there with regard to that offer, besides what appears in the Public Accounts Reports?

A I don't have, or I don't recollect any other correspondence. The offer was received and considered by the Advisory Committee, and they agreed to an acceptance of the offer on the same basis as they had accepted the other one.

Q How was the offer communicated?

A I received a letter with the offer.

Q Have you that letter?

A No, I don't have it. The offer, to my recollection, came from Mr. Barnett to myself, and I submitted the offer to the Advisory Committee.

MR. McMASTER: I would ask that that letter be produced for counsel to examine, my lord.

Q Now I notice in this letter that you wrote to Mr.

Barnett on October 30th, 1943, that apparently the Soldiers' Settlement Board wanted to deduct 10 per cent. this time from their appraisals.

A The Soldiers' Settlement Board wished to?

Q Yes. I will refer you to the paragraph: "As noted above . . . . . difference of 10 per cent."

A Yes.

Q Was there any explanation given as to why the Soldiers' Settlement Board wanted to take 10 per cent. off this deal, whereas it was 2 per cent. on the deal before?

A No explanation whatever. That was their offer, and the approximate difference was pointed out by the Committee.

Q Who ultimately consummated this deal with the Soldiers' Settlement Board for the additional 41 properties?

A The acceptance of the whole deal was between two Government Departments. It was accepted by the Honourable Norman McCarty.

Q Did he have the correspondence between the Secretary of State and the Minister responsible for the Department of Veterans' Land Act with regard to the ultimate consummation?

A No, I don't think so.

Q Are you able to provide me with a list of the 41 properties that are involved? Does it appear in Volume 6?

A Yes, it is in there, but seeing that you are referring to it, what page is it? It is in the

Public Accounts Committee minutes, anyway.

THE COMMISSIONER: Q: There are two lists found at pages 114 and 115?

A They are not the lists, sir. It may be that they were not dealt with in the minutes.

MR. McMASTER: Q: If we don't find them in the minutes, Mr. Shears, would you be prepared to provide the Commissioner with a list of those properties, giving the Japanese name and the Soldiers' Settlement Board appraisal number, and the appraisal, sale price and assessment, if you have it?

A Yes.

Q Now, I would like to refer again to this letter of October 30th, 1943, at page 224 of Volume 9, and draw your attention to the paragraph after the one which refers to their 10 per cent. difference, and states: "The Committee assumed . . . . .as to value."

Did the Committee have any basis for assuming all appraisals were made on the same basis as before?

A They just acted on the assumption that they were on the same basis.

Q Do you, in fact, know when the appraisals were made on those 41 parcels?

A No, I don't.

Q And did the Committee know, at the time?

A It isn't my recollection that they did.

MR. McMASTER: The 41 parcels, my lord, Mr. Virtue has drawn to my attention that they appear in

Volume 6. No, he is mistaken, that is not it.

Q Can you give me the date that the transaction with regard to these 41 parcels of land--the date that the offer was made and accepted--in other words, the deal consummated?

THE COMMISSIONER: Page 175.

MR. McMASTER: Q: If I recall, I think you referred to your minutes of January 13th, when you were looking at them.

A The offer was submitted to the Committee, on the 26th October, 1943: "Mr. Shears then submitted offer received from I. T. Barnett." The offer was the 26th October, 1943.

Q That was approved by the Committee, and sent, presumably, to the Secretary of State. When did he complete the deal?

MR. HUNTER: Excuse me, my lord. I don't think that is correct.

MR. McMASTER: I am sorry.

MR. HUNTER: It was before the Committee on the 13th of January, for approval. Wasn't that the previous evidence?

MR. McMASTER: Q: Let's see. There were two matters then that came before the Committee. What came before the Committee on the 26th of October?

A On the 26th of October, 1943: "Mr. Shears then submitted . . . . .".

Q Those were the properties referred to in your letter of October 30th?

A Yes.

Q What was done with regard to it, at that meeting?

A "Mr. Shears was asked . . . . .such an offer."

Q Will you refer to your minutes of January 13th, 1944? What discussion is there in there with regard to the sale of property to the Veterans' Land Act?

A The continuity, of course, is, if they would make this offer on the 13th January, 1944,-- there is a letter dated December 18th, from Mr. I. T. Barnett, District Superintendent of the Soldiers' Settlement Board, and Veterans' Land Act, addressed to the Custodian, which reads: (reading). This is what I read before. They made the offer on the property at the appraised value, less 2 per cent.

Q So the approval of the Committee to those 41 properties wasn't made until January 13th, 1944?

A That is true.

Q And you don't know when that was finalized after that?

A No, I don't recollect.

THE COMMISSIONER: Q: What price were these lands agreed to be sold at, in the aggregate price?

A $43,991.00, as against the Soldiers' Settlement Board valuation of $44,890.00.

MR. McMASTER: As your lordship pointed out, the Schedule is set forth at page 175, in Volume 7 of the Public Accounts Reports, showing the total appraisals, and the sale price.

Q Now, witness, from this material that I have referred to this morning, it surely is quite clear that no attempt was made to sell these lands by private sale, until 1944, that is, the farm lands I am speaking of, to anyone?

A The first offering was on the first day of May, 1944.

Q Witness, do you agree that the reason for that was because of the Government policy to give the Veterans' Land Act the first opportunity to buy the farm lands?

A No, these properties could have been offered long previous to that, because this was entirely left to the discretion of the Advisory Committee, as to when they would place them on the market.

Q We will have to go back to page 220, then, in which this minute of January 13th is reported, and I would refer you to the discussion that appears immediately after that. In face of that minute, and the discussion there, do you not agree that the reason why these properties were not offered was because of the Government's policy of sale?

A I have already pointed out--

THE COMMISSIONER: I do not think the witness understood your last question.

MR. HUNTER: Mr. McMaster said this was the first opportunity. I think the witness said it could have been a few months earlier. It was in January the policy was changed.

MR. McMASTER: Q: Is that what you meant, it could have happened in January of 1944?

A It could have happened in January of 1944, yes.

THE COMMISSIONER: Mr. McMaster, may I point out to you that the price of these 41 properties which was finally agreed upon, is very close to 2 per cent. off the appraised value?

MR. McMASTER: Yes, that is correct, my lord.

Q Now, I presume, witness, that you will agree with Mr. McKenzie, who was on the Advisory Committee in New Westminster, that he ought to know whether there would be a public demand for farm land, or not?

A I would have no specific knowledge in that regard.

Q Now, did you appoint Mr. McKenzie to this committee?

A No.

Q Who appointed him?

A I presume the appointment was from Ottawa.

MR. HUNTER: The appointments were made from Ottawa.

MR. McMASTER: Q: Who recommended Mr. McKenzie, do you know? A. No, I don't.

Q Do you know what his qualifications were to sit on a committee like that?

A He was quite an old-time resident of the New Westminster district.

Q And his business was what?

A I believe he had been--I don't know whether he was an actual real estate agent, or not, but I think he knew a considerable lot, and I understand he was well-versed.

Q Mr. Shears, one of these committee meetings was in Mr. McKenzie's office. Were you present at that meeting? A. Yes.

Q What sort of an office was it, or what kind of a business was it?

MR. HUNTER: If my friend is trying to qualify Mr. McKenzie, I suggest he should call him.

MR. McMASTER: My friend knows full well that Mr. McKenzie has departed. Mr. Shears surely knew this man.

THE COMMISSIONER: Q: I think if you can answer the question, you might do so, Mr. Shears.

A I would say he was an insurance and real estate agent. I have no particular knowledge. There was just the one time I was in his office, that was the only time I was there.

MR. McMASTER: Q: Why are you so reluctant to say he was a real estate man?

A I am not reluctant to say he was a real estate man. I am not positive he was.

MR. HUNTER: I think I can adduce evidence to show he wasn't.

MR. McMASTER: That is interesting.

THE COMMISSIONER: All right; let us get along with it.

MR. McMASTER: Q: In any event, I presume the reason he was on the Advisory Committee was, it was thought he knew something about farm lands?

A That would be my assumption.

Q So, when he expressed the opinion there was a demand in 1943--in May of 1943--for these lands

of the Japanese, it would be an opinion that should receive some consideration?

MR. HUNTER: My lord, I don't think that that is a fair question at all.

THE COMMISSIONER: Neither do I.

MR. McMASTER: Very well, my lord.

Q Witness, I suggest to you that the obvious purpose of the appraisal by the Soldiers' Settlement Board was to ascertain whether the property would be suitable for returned men?

A I have no specific knowledge regarding that.

Q I see.

THE COMMISSIONER: You will have Soldiers' Settlement Board witnesses later, I would expect, Mr. McMaster?

MR. HUNTER: We will have them, my lord.

MR. McMASTER: I think there is enough material filed this morning on that, my lord.

Q The purchasers' representatives were present, you say, only at one meeting?

A At the latter part of one meeting.

Q You are absolutely sure of that, are you?

MR. HUNTER: He has answered the question, my lord, twice.

THE COMMISSIONER: Counsel is giving the witness another opportunity to make a correction, if he desires so to do.

A Definitely, in my recollection, they were only present at the latter part of one meeting.

Q MR. McMASTER: And that was on May 24th?

A That would be on May 24th, yes.

Q 1942? A. Yes.

Q Now, Mr. D. W. McPherson was out here specifically to handle this deal with the Veterans' Land Act, is that not right?

A I wouldn't say specifically. He had other business that he conducted.

Q How long before the negotiations began did he come out--how long before March 15th, when the first Committee Meeting was held?

A I don't recollect the time.

Q Was it shortly before?

A I don't recollect.

Q And if I recall the Public Accounts Evidence correctly, he went back to Ottawa immediately after the Committee had indicated their approval?

A He went back before the Committee had indicated their approval.

Q That is before the meeting of May 24th?

A Before the meeting of May 24th.

Q He was at the meeting of May 24th, Mr. Brewin draws my attention, not the meeting of June 1st. Is that the situation?

A I will check it up. Yes, it was the meeting of June 1st, when the offer was accepted, and Mr. McPherson wasn't present on that occasion.

Q And Mr. McPherson carried on the correspondence with the representatives of the Veterans' Land Act during the negotiations?

A Yes.

Q Now, I would like to refer to something I have already mentioned, at page 210. There is an

indication that Mr. McPherson was instructed to prepare an advertisement, and to catalogue this farm property, at an early meeting of the Rural Committee?

A I think that is a wrong interpretation. There was no suggestion that these particular farm lands should be catalogued. That was in reference to the general policy of liquidation.

Q Do you know who wrote those minutes of the meeting of March 15th, as I remember it?

A I can't see the reference to that first meeting, but the minutes of the first two meetings were written up jointly between myself and Mr. McPherson, both of us being present at the two initial meetings.

Q You have agreed this is a proper minute of the meeting?

THE COMMISSIONER: Let me see your minutes, please.

MR. McMASTER: I think it would be the meeting of March, 18th, my lord.

THE COMMISSIONER: Could you go on with something else, in the meantime, and allow Mr. Shears an opportunity to run this down during the luncheon adjournment?

MR. McMASTER: I would suggest, my lord, that we might break off now, and perhaps start in again at 2 o'clock.

THE COMMISSIONER: Very well. We will adjourn until 2 o'clock.

(PROCEEDINGS ADJOURNED UNTIL 2 P.M.)

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

J. P. Hamilin

Deputy Official Stenographer

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

F. G. SHEARS, resumed stand and testified further as follows:

MR. McMASTER: My lord, at the time we adjourned the witness was instructed to consult the minute book of the Committee to ascertain whether there appeared in those minutes the quotation which appears at page 210 of the ~~P~~ Public Accounts Committee.

THE COMMISSIONER: Q: Did you find it?

A Yes.

MR. McMASTER: I think, my lord, speaking to Mr. Shears during the noon hour, he may also have found something that explains that and I think in fairness he ought to have an opportunity to refer to the other minute.

A This was a quotation from the first minute of the Advisory Board after the terms of reference had been presented to them and they had discussed the matter:

"The Chairman, anticipating ...

. . . conducting such sales."

This was all sales, not specifically the sales to the V.L.A.

Q What date is that?

A That was the 15th of March, 1943.

Q I wonder if you would be good enough to read the minute and give any explanation you want after.

A "Mr. McPherson pointed out that the whole question of the sales program . . . . . might

serious difficulties."

I would like to point out that in view of the fact nothing could be done until Mr. Barnet was contacted, that this next paragraph is not intimately tied up with it except to the extent just indicated, as I read.

"In order that the work of the Committee might not be delayed . . . . . might result in considerable curtailment in the number of sales."

Q I take it it might be drawn from that minute that instructions to Mr. McPherson to prepare a public notice of the proposed sale in the catalogue was dependent upon what the Soldiers' Settlement Board did?

A Yes, that is my interpretation.

Q That is your purpose in referring to that minute?

A Yes.

Q However, if you refer to the minutes of the next meeting, as indicated at page 210 of the Public Accounts Report, Mr. MacKenzie did state that the Custodian ought to advertise.

A Yes. "Mr. MacKenzie stated he thought . . . . subject to considerable criticism."

THE COMMISSIONER: Q: I would just like to get that feature cleared up. Is it your view, Mr. Shears, that the statement made by Mr. MacKenzie in regard to the policy of advertising was not made in relation to the Soldiers' Settlement Board's sales. Is that the construction you are desiring

to put on it?

A There is just one point Mr. McMaster introduced that I haven't covered --

Q Will you please direct your mind to the question I am putting to you?

A I am, sir. I am wondering if this quotation is before or after: "Subject to Mr. McPherson's discussions with Mr. Barnet . . . . . would depend on what percentage of the property the Soldiers' Settlement were prepared to take." And then at the following meeting Mr. McPherson stated that "as a result of his discussion with Mr. Barnet . . . . . of a catalogue." Then it was afterwards that Mr. MacKenzie stated he thought that since the Custodian's policy generally was to advertise, if the Custodian didn't do at least give the public a chance to bid, it might be subject to considerable criticism. "For the purpose of discussion, he was also of the opinion . . . . . might stand." And that appears to be the end of it.

MR. McMASTER: Q: The answer to the question which is lordship addressed to you is Mr. MacKenzie was referring to the farm lands which would be involved in the Soldiers' Settlement deal?

A In the opinion of Mr. MacKenzie, yes.

Q Is there anything in the minutes to indicate that any other persons at that meeting shared Mr. MacKenzie's views?

A "The Chairman then called upon Mr. Yamura . . .

. ." --

Q Would you answer the question I asked, please? Is there anything to indicate in the balance of the minutes as to whether anyone else besides Mr. MacKenzie shared the view that these properties should be advertised?

A No, I don't think so.

Q It is a fact, isn't it, that Mr. McPherson's attitude was that the public ought not to be given an opportunity to bid on these properties until the Soldiers' Settlement Board had had their choice? A: Yes.

Q And Mr. McPherson's view of the matter prevailed at that meeting, I take it?

A Yes.

Q Now, the Committee had only 17 parcels checked, is that right? A: That is true.

Q And the result of that check showed that the appraisal by the sub-Committee was 53% higher than the appraisal by the Soldiers' Settlement Board? A: Yes, I had in mind something over 50%.

Q And as we noticed from some of the minutes referred to this morning, Mr. MacKenzie considered in any event that the appraisals of the sub-Committee were conservative.

A He so expressed himself.

Q And of the three persons who were appointed at that sub-Committee, the person who made the lowest appraisals was Mr.MacKenzie, is that not

right? A: I have that information in mind. I cannot think of the sources from which it was obtained. I do not think it was specifically mentioned in the meeting.

Q That is your understanding?

A Yes.

Q Did the Committee arrive at any figure on the basis of these spot appraisals? That is to say, did they use these spot appraisals and relate them to the whole deal? Did they say,"If 17 parcels are 53% higher, according to our appraisal, then the whole appraisal should be 53% higher"?

A "The feeling of all the members of the Committee" -

Q Will you answer my question, Mr. Shears.

A Will you phrase the question again, please?

Q The Committee had an appraisal on 17 properties and they found it was 53% higher than the appraisal of the Soldiers' Settlement Board. Did they say that if these 17 were 53% higher, then the total appraisal on the 768 parcels, or whatever it was, should be 53% higher?

A I do not recall that the argument was presented in that way,but it was at that time the suggestion was made that the offer should be at least one million dollars less ten per cent.

Q May I put it the otherway, then: What did the Committee do with these 17 appraisals after they got them? A: Right at the meeting they were compared -- the actual com-

-parative list was made at the meeting. The sub-Committee came back with their figures and they were related to the Soldiers' Settlement Board table, with the result indicated.

Q And were those 17 appraisals from that point on put on the shelf some place?

A Generally speaking, yes.

Q They weren't discussed any further?

A I would say no.

Q And there was no endeavour to relate the 17 spot appraisals to the whole transaction?

A Only to the extent that the offer of $750,000.00 was out of relation on that basis to the appraisal of these 17.

Q How much did you say?

A The $750,000.00 offer they had before them was considered to be out of relation, in view of the fact that the Committee had come back with these spot appraisals.

Q They didn't, however, apply that to arrive at a figure which would be a proper figure for the worth of the property?

MR. HUNTER: I object to the word proper, my lord.

MR. McMASTER: Q: They didn't apply that to the whole transaction to ascertain what would be the result if there were the same difference in appraisal on all the properties?

A No.

Q So that the purpose of having this spot valuation was therefore defeated?

A I wouldn't say that, because it was on the basis of the sppt valuations they guggested $750,000.00 was not sufficient.

Q They used it to turn down the $750,000.00 offer?

A Yes.

Q Did they use them again?

A That is the basis, I would say, on which they suggested one million dollars less 10%.

Q You suggest it was on the basis of the 17 appraisals? A: The fact that the appraisals were such as they were was the reason.

Q Would one million dollars be 53% higher than the total appraisal?

A No.

Q It would only be about half that amount.

A Yes.

Q But you think they used that in arriving at one million dollars?

A I think that is the use they made of it.

Q You suggested this morning they didn't arrive at a figure of one million dollars.

A One million dollars less 10%, I think I have said every time I have mentioned one million dollars.

Q Can you explain what the purpose of the Committee was in suggesting there should be 10% off for cash, or that there might be a consideration of 10% for cash?

A There had been discussions in the meeting that this was not an offer on one property or a

limited number, but on a large group of properties.

Q That is not the question. Why did they think there should be 10% off for cash?

A I don't know.

Q Was there any discussion?

A I don't recall any particular discussion.

Q The fact, I suggest to you, Mr. Shears, is that the recommendation that was made to accept $850,000.00 was based on the Soldiers' Settlement Board appraisal.

A Yes.

Q And not on the result of the check of these 17 parcels. A: I would say a combination; the fact that these spot valuations were such as they were was an indication to the Committee that $750,000.00 was not sufficient, but the in between figure, which was the Soldiers' Settlement Board appraisal, would likely be a fair market value.

Q I would like to refer again to the Public Accounts Committee and I would ask to put in the whole of the last question on page 123 and the whole of the answer to that question -- Volume 6.

Is it not true that the Soldiers' Settlement Board did ~~xxx~~ not provide you~~k~~ that is provide the Committee or the Custodian with copies of the appraisal reports they had made?

A It is true they didn't supply us with them.

Q All that was done was a list of the names and the legal descriptions of the Soldiers' Settlement

Board was brought to the meeting?

A Yes.

Q And it was laid on the table?

A Yes.

Q Did anybody at that meeting thoroughly examine that list? A:No, not at that time.

Q And did anybody at any subsequent time?

A No.

Q And when did you first receive the Soldiers' Settlement appraisal reports? You know what I am referring to? A: Yes.

Q The reports on each individual property showing the manner of appraisal.

A Yes. That was only shortly to the setting up of this particular Commission to hear claims of persons of the Japanese race.

Q That would be in 1947, would it?

A Yes.

Q And that was the first time that the Custodian or the Committee would have any opportunity to examine those appraisal reports?

A Yes.

MR. McMASTER: I would refer, my lord, to page 112.

MR. HUNTER: My lord, I think there is an inaccuracy there. Actually, those were obtained after the Commission was authorized. I obtained them myself. The actual individual appraisals were not obtained by the Custodian. I obtained them.

MR. McMASTER: Q: I take it that first came to your

attention at or about the time this Commission began. A: Yes. I didn't mean to indicate we got them. They came into our possession.

Q Page 112, the first two paragraphs beginning with "Now, with those two figures", I would like you to read the two paragraphs at page 112 that I have indicated, Mr. Shears.

A Starting with "Now, with those figures"?

Q Yes. Just read it to yourself.

THE COMMISSIONER: Do you mean to include the letter?

MR. McMASTER: No, not the letter; down to the letter.

Q Now witness, I take it from that that the Committee and the Custodian relied on certain representations which were made by the Soldiers' Settlement Board as to the nature and the condition of these properties.

A The Advisory Committee did.

Q And the Custodian did. Did the Custodian have any personal knowledge of these properties?

A We were administering many of them.

Q But did the Custodian -- obviously the Secretary of State wouldn't -- did you personally know each one of these properties?

A No.

Q Was there any person on that Committee who did?

A I doubt it.

Q So the Committee was relying on certain representations that are contained in that statement.

A Yes.

Q Made to them by theSoldiers' Settlement Board?

A Yes.

Q You have had an opportunity since thisCommission began to examine some of the appraisal reports of theSoldiers' Settlement Board?

A Yes.

Q And would you agree that some of the representations you refer to there are not correct?

A They differ.

Q What do you mean by that?

A They differ. I wouldn't like to say which would be correct.

THE COMMISSIONER: Q: Differ from what?

A Some of the statements made in those individual appraisals, which I would have seen, would not fit into what is described here in regard to some of the lands.

MR. McMASTER: Q: I will draw your attention to one specific wquestion and that is it is stated that an average of several hundred dollars would have to be spent on the various houses in order to make them habitable. Have you checked the Soldiers' Settlement appraisals to see whether that statement is true, or is correct, I should say?

A How could you tell by looking at the appraisal whether several hundred dollars were required?

Q On the appraisal there is a question asked the appraiser: "Is the dwelling habitable without repairs? If not, what is your approximate estimate of the cost to make it habitable?"

A Yes.

Q And in every case I have seen, that question is answered. Have you looked at those at all?

A I have looked at some of them, yes.

Q And have you found the statement to be correct that an average of several hundred dollars would have to be spent on these houses to make them habitable? A: I wouldn't care to say whether that would be the average. Many of the appraisals do state a certain sum of money would be required.

Q What proportion is your impression?

A I haven't analyzed the whole 774. It is only those that have come to my attention at theCommissions hearings.

Q From your observations of these individual appraisals, would you say that they justify the statement that there was no comparison with the yield between the high and low land and that the highland, which they say is 90%, had been farmed intensively and the values were petering out. From your observation of these individual appraisals, would you say that is a correct statement with regard to 90% of the properties involved in this deal?

A I wouldn't be able to give a positive answer to that.

Q However, if those appraisals had been made available to the Advisory Committee, they would have had an opportunity to investigate those matters?

A That would have been possible.

Q Did the Committee employ an agricultural economist or any other competent person to check these statements on page 112?

A I am not aware that they did, other than their own sub-Committee.

Q And are any of them agricultural economists?

A No, I wouldn't say so.

Q And they only checked 17 out of 741 parcels.

A Yes.

THE COMMISSIONER: Q: How were those 17 parcels selected, Mr. Shears?

A I am not absolutely clear, but I think they were just -- they went around the table and said, "We will pick this out of Surrey," Lot so and so and a legal description, but I am positive there was no attempt on anybody's part to pick and choose. They were just drawn at a venture.

MR. McMASTER:

Q Were the Committee aware of the fact that the appraisals had been made on the basis of the hazards and uncertainties of conditions in 1942, with the possibility of bombing attacks in some people's minds?

A Only to the extent that I think at that time there was a very pessimistic feeling on the part of many people on the Pacific Coast.

Q That is in 1942? A: Yes.

Q At the time the appraisals were made?

A Yes.

Q And the Committee were aware of that?

A Yes.

Q Are you prepared to admit that the conditions that existed from May toAugust,1942, didn't exist as to the hazards and uncertainties in May, 1943; that is, these hazards and undertainties had disappeared in May, 1943, to a large measure? A:Not entirely. They may nothave been quite so pessimistic.

Q What were the hazards and uncertainties then?

A Well, the war was still on and V.E. Day hadn't yet come.

Q In other words, it was the general hazards of a period of war?

A That is all I would have in mind.

Q There was no longer the particular hazards of 1942?

MR. HUNTER: I would suggest that Mr. McMaster define the particular hazard. It is a very general question.

MR. McMASTER: I suggested the hazards: The possibility in some people's minds of invasion and the possibility of bombing attacks.

A It was not so pronounced.

Q Would you agree with the statement that Mr. Murchison made before the Public Accounts Committee at page 189 at the top of the page? He was asked in the second question: "In what had been . . . . . in that particular area?" Would you agree with that statement?

A I wouldn't be prepared to answer that technical question.

Q When the Committee sat in May, 1943, did it consider that there were great hazards that were deflating land values?

A I would say not; not on account of the war conditions.

Q Supposing there hadn't been any transaction with the Veterans' Land Act, do you not consider you could have sold the 17 parcels that were appraised by your sub-Committee for the price that was set on them by the sub-Committee?

A It wouldn't be possible to give a definite answer until actually put into practice -- advertising and seeing what offers they got.

Q You used Mr. MacKenzie on other occasions as an appraiser. Wasn't it your experience that you could usually sell the properties he appraised at his appraisal or better?

A Generally we considered his valuation sound.

Q Wasn't it your experience, however, that you sold properties he appraised, most of the properties he appraised, for more than the appraisal?

A Generally speaking, that would be true.

Q Was the Committee aware of the fact that where the Soldiers' settlement Board found property that they might have difficulty disposing of, they made due adjustment for that in the appraisal they placed on that property?

THE COMMISSIONER: I did not understand your question. Will you re-frame it again?

MR. McMASTER: Q: Was the Committee aware of the fact,

when they accepted this offer, that when the Soldiers' Settlement Board appraised these lands and they found among them lands which might be difficult to re-sell, that they duly accounted for that difficulty by reducing the amount of their appraisal on those lands?

MR. HUNTER: That is a conclusion.

MR. McMASTER: I am just asking whether the Committee was aware of it.

MR. HUNTER: He asked whether the Committee were aware.

MR. McMASTER: Q: Did the Committee find that to be a fact before they accepted this offer?

THE COMMISSIONER: Q: Had theCommittee found that to be a fact? A: No, I would say that in the appraisal those things to which reference had been made would be taken account of. In order to arrive at an appraised value would depend on its market value and its saleability.

MR. MCMASTER:Q:So you say the Committee, in other words, were aware of the fact that the Soldiers' Settlement Board had made due provision for lands that would not be readily saleable.

A They would have to depend on the valuation being sound,and if the property was of inferior kind, naturally it would be reflected in the appraisal.

Q Did the Committee ask the Soldiers' Settlement Board or anybody else the reason why the Soldiers' Settlement Board appraisals were so far below the assessments on those lands?

A I don't recall that question was asked.

Q Was the question not raised at all?

A The question of assessed values was raised, yes.

Q And was there no comment in the Committee as to the fact that these appraisals were only about 66% or 67% of the assessed value?

A It was pointed out in the negotiations that the assessed value of these properties was one and a quarter million dollars, whereas the offer was $750,000.00.

Q But was there no other discussion about that in the Committee? A: I do not specifically recall.

Q At that time the Custodian had no experience in selling lands? A: No.

THE COMMISSIONER: Just let us have no confusion. Whom do you mean by Custodian -- the Director of the local office?

MR. McMASTER: The Director of the local office, working with his Advisory Committees.

Q Would you like to answer the question again, Mr. Sheabs? A: Yes.

Q The Director of the local office, working with his Advisory Committees, had had no experience at that time.

A Only in a limited number of properties, which I mentioned before, where the owner had consented to the sale.

Q And was the Committee aware of the fact that the Department of Veterans' Land Act had not

bought lands prior to this purchase?

A I couldn't answer that.

Q You surely can answer. You can say you don't know, if you don't know.

A I don't know.

Q You don't know whether they were aware of it?

A No.

Q If it was a fact. A: I don't know even if it was a fact.

Q Did the Committee make any inquiries as to what instructions had been given to the appraiser appointed by the Soldiers' Settlement Board?

A I don't recall they did.

Q Or did they make any inquiry as to what the methods of the appraisal were?

A There was a discussion between members of the Committee and those three men from the Regional Board. It lasted quite a time; a general discussion as to their qualifications and the methods by which they were appraising.

Q They made certain representations as to the qualifications of the appraisers?

A Yes.

Q However, was there any discussion as to the methods which the appraisers employed in appraising the land? A: I do not recall that it was specifically mentioned at the meeting.

Q I was going to refer to it subsequently, but I might now, to the fact there were 43 properties withdrawn from the original deal, and my under-

-standing is the reason why some of those properties were withdrawn was because there were encumbrances against the lands which were greater than the appraisal by the Soldiers' Settlement Board. A: That is true, in some cases.

Q And isn't it generally true you got encumbrances against ~~xx~~ land in excess of its for sale value?

A The encumbrances placed on it.

Q Can you advise us when the encumbrances were placed on them?

A I cannot. It could be obtained.

MR. HUNTER: I don't see why we have to produce that. Mr. McMaster has exactly the same facilities as we have.

THE COMMISSIONER: That is so, Mr. McMaster. The Land Registry Office is open to you just as it is to the Government.

MR. McMASTER: Yes. I have just recently received the legal descriptions. That has been my problem up to now.

THE COMMISSIONER: On that score, Mr. Hunter, if you have the Documents of Title or copies ofthe Documents of Title, mortgages and so forth --

MR. HUNTER: We haven't those. They were handed over.

THE COMMISSIONER: To whom?

MR. HUNTER: To the purchasers. We would have to do exactly the same as Mr. McMaster: Search in the Land Registry Office.

MR. McMASTER: Q: Isn't it a fact that those prpperties that were withdrawn from the Soldier Settlement Board's sale because they had encumbrances greater than the appraisal by the Soldier's Settlement Board, were ultimately sold for considerably more than the encumbrances that were against them?

A They were sold for more in varying proportions.

THE COMMISSIONER: The date of sale is a factor.

MR. McMASTER: I will be dealing with those withdrawals, my lord, subsequently.

THE COMMISSIONER: When were these properties sold?

MR. McMASTER: We haven't got the properties identified, my lord.

THE COMMISSIONER: Q: But the 43 properties?

A From various dates.

MR. McMASTER: From July, 1944, up to April, 1946. My lord, I will be filing a Table shortly setting out those 43 properties.

THE COMMISSIONER: All right.

MR. McMASTER: Q: Now, Mr. Shears, it is true, isn't it, that very little of this property went out of production at the time the Japanese left?

A It is true that in the majority of cases, tenants were found to go on the properties. In some cases they didn't prove the most satisfactory tenants.

Q Will you answer the question I asked, please. Is it true that very little of the property went out of production at the time of the evacuation, when the Japanese left?

A Yes, that is true.

Q And is it true that these properties were productive properties on the whole?

A The majority of them would be.

Q The large majority of them would be?

A There would be a considerable number that were not.

Q There was some bushland among them, which I would not expect to be productive --

A They formed a fair percentage of the whole, but the majority would be productive.

Q There is one other small point. I notice in Volume 6, page 11, there was an additional amount paid ~~x~~ on the original deal of some $3,000.00. At the end of the second paragraph, it states: "On a certain number of parcels . . . . $817.00."

A That was in cases where there were encumbrances and the matter was referred to the Director of Veterans' Land Act, and in those cases he was prepared to increase his offer to that extent.

Q That is, in a few cases the encumbrances were slightly higher than the appraisal?

A Yes.

Q Do you have any record of those cases?

A They are in the office, yes.

MR. McMASTER: I wonder if my learned friend would be good enough to undertake to give me the cases.

THE WITNESS: Are they not indicated in the list of properties?

MR. McMASTER: Perhaps they are.

A I will see if I can find it.

Q I can get it later.

A I think they are in that long list in the Schedule at the back.

Q You received a number of complaints with regard to the sale of property of Japanese persons, is that right? A: Yes, we had correspondence from Japanese.

Q You received some 300.

A Yes.

Q And your reply to those you received was not very encouraging to others to write in and complain, isn't that correct?

MR. HUNTER: That is an assumption, my lord.

THE COMMISSIONER: Q: What was the nature of the reply?

A The nature of the reply was I wrote that we had received their complaint and pointed out to them that this was an over-all policy of the Canadian Government and regretted we could not do anything for them.

MR. McMASTER: Q: Isn't it correct that the large number of those complaints, a very large number of those complaints, came in with respect to the sale of farm land?

A Yes.

Q As compared with the sale of other property?

A That is true.

Q What percentage of the 300 would you say, just offhand? A: 90%.

Q And if I recall rightly, the Custodian sold just

about as much urban land as farm land, didn't he?

THE COMMISSIONER: What do you mean by that -- acreage or number of parcels?

MR. McMASTER: Number of parcels.

Q He sold roughly 900 parcels of urban land and --

A We sold a greater number of parcels than we did to the Veterans' Land Act.

Q There is one other small point, Mr. Shears, before I deal with two larger ones. In the deal which you made, or which the Custodian made with the the Soldiers' SettlementBoard, was there any agreement that the Custodian would pay the legal fees for drawing the Transfer of Title and registering the Transfer of Title?

THE COMMISSIONER: Let me understand what your question means -- that the Custodian would assume the liability rather than the Japanese owner?

MR. McMASTER: No, I mean the deal was between the Custodian and the Veterans' Land Act.

Q In the deal between them, did the Custodian agree to pay the costs of drawing the Conveyance and the registration of the Conveyance?

A No.

Q And was the Committee aware that the usual practice in this province -- I may have to call evidence on this -- is for the purchaser to pay the costs of drawing the deed and registering it?

MR. HUNTER: My lord, I think he hasn't yet established that is the usual practice.

MR. McMASTER: Well, it is subject to my establishing

it, my lord, but I submit it is and I am asking the witness as to whether the Committee considered that that was so.

A The question was not raised.

THE COMMISSIONER: That is disposed of.

MR. McMASTER: Q: In fact, the legal charges for drawing the Conveyances and registering them were charged againsthe individual Japanese.

A That is true.

Q Do you know the total of the legal bill for the drawing of Conveyances and registering of Deeds to the Veterans' Land Act?

A Offhand I do not recall it.

THE COMMISSIONER: Q: Would that apply to all transactions? A:No, just the V.L.A.

Q Was there any reason for it being done in the V.L.A.? A: No, I know of no special reason.

MR. McMASTER: Q: My recollection is you charged about $15.00 in each case.

A The individual charge was $15.00.

Q So, it wouldn't be 741 times that, because there would be some people who owned more than one parcel. A: Yes.

Q It would be a substantial sum of money?

A $15.00 was the charge made against each of the properties.

THE COMMISSIONER: Q: I am rather interested in that. How did that decision come to be made?

A It came about by instructions that came to me

from Ottawa, that a certain policy was to be employed to take care of the legal end of transferring these properties, and that the bill was to be pro-rated among all the properties. It was specific instructions from Ottawa, as far as I am concerned.

Q And that included searching the title, did it?

A Yes, that was in doing everything in getting the property to the new purchaser.

MR. McMASTER: Q: Mr. Shears, I would like to return to the 17 properties that the sub-Committee appraised, and I refer to Volume 6 of the Public Accounts Report, page 114, where a Schedule of those properties is set out.

THE COMMISSIONER: Q: Before you get started on that, these legal fees were charged against the Japanese owners, were they?

A Yes, and I think $15.00 was the uniform charge all through.

MR. McMASTER: Q: There was no attempt to relate them to the actual costs?

A No. I think the theory behind that was it cost just as much to transfer a higher priced property as it did a lower priced one.

(PROCEEDINGS RESUMED AFTER SHORT RECESS).

THE COMMISSIONER: Before we resume, gentlemen, there has been some correspondence relating to applications to file claims late and other matters, most of which I have mentioned to both counsel. I think perhaps that those might be spoken to

tomorrow morning. It was my intention that they would be spoken to today, but if counsel are prepared I would like to hear the applications tomorrow, so that they can be dealt with.

Is that satisfactory to you, Mr. McMaster?

MR. McMASTER: Yes, my lord.

THE COMMISSIONER: And you, Mr. Hunter?

MR. HUNTER: Yes, my lord.

THE COMMISSIONER: Very well. Proceed.

MR. McMASTER: Q: Just before I proceed with these 17 properties, there are one or two things I would like to refer to. I would like to refer to page 192, Volume 8 of the Public Accounts Reports, the first question at the top of the page which was put to Mr. Murchison, and the effect of his answer is that in making the appraisals, the appraisers didn't pay any attention to sales.

THE COMMISSIONER: To sales of other property?

MR. McMASTER: Yes, I take that to be so.

Q Was the Advisory Committee aware of the fact alleged by Mr. Murchison, that the appraiser didn't take account of sales?

MR. HUNTER: My lord, it hasn't been established as a fact. I think the question should be re-worded.

THE COMMISSIONER: In any case, I am not going to treat it as a fact until it has been so established.

Q You understand the purport of the question, in any case? A: Yes.

MR. McMASTER: Q: Was the Advisory Committee under the impression at the time they made this deal that

the appraiser or the appraisers had taken into account or into consideration sales of comparable property at a comparable time?

A The question was never raised, so far as I know.

Q And did the Custodian or the AdvisoryCommittee themselves undertake in any way to ascertain what private voluntary sales were being made at that time on comparable property?

A No, nothing was done.

Q Was there any indication given to theCommittee that the appraisers, in making their appraisal, didn't take into account the possible speculative value of the property in question?

A It is a question that wasn't raised at all.

Q Was the question raised at all as to whether some of these properties might be more suitable for purposes other than farm lands?

A I don't recall that it was.

Q Then, dealing with the 17 properties which are set out at page 114 of the Public Accounts Minutes, would you just describe again the manner in which these were selected, Mr. Shears?

A The Committee indicated that they would make spot valuations on a limited number of properties in various districts. The suggestion was made that they might take three in Surry, two in Mission, two in Claydon, four in Maple Ridge and one at Pitt Meadows; and I am not clear as to just how those particular 17 properties were selected.

Q Were they selected at that Committee meeting?

A I believe they were. At the conclusion of the meeting I believe Mr. MacKenzie and members of the Committee just decided, "Well,we will work down the list and we will go to such and such a legal description," and beyond that I don't recall.

Q Now, there were involved in this transaction a large number of properties in the Municipality of Delta, isn't that correct?

A Yes.

Q And were any properties included from the Municipality of Delta?

A I don't think any were appraised in Delta.

Q And they were involved in these properties -- I won't say whether valuable or otherwise -- properties situated on Lulu Island in the Municipality of Richmond.

A That is true.

Q And they weren't included in these 17 properties?

A No.

Q Can you tell us why they weren't included?

A I know of no particular reason.

Q You think it was purely a question of chance?

A Yes.

Q In your opinion, was this a fair sample of the 741 properties that were being sold?

A I do not think I would care to give an answer.

Q Did the Committee appear to think it was a fair sample? A: It was the Committee's own suggestion that they should appraise about this number.

Q Did it come to the attention of the Committee at the time these samples were selected that there were four parcels involved, consisting of two groups of properties that were adjacent? That is, you might have Lot 1 and 2 and Lot 1 and 2 belonged to the husband and wife and were operated as one farm. There are two sets of that type of property in there. Did that come to the attention of the Committee?

A Not as far as I am aware.

Q Did it come to the attention of the Committee that two properties they selected in one municipality were adjacent lots?

A Not that I recall.

Q Would you consider that the fact, if that is a fact, of those properties being adjacent would tend to weight the sampling which was taken?

A Attempt to weight it?

Q Yes. A: It would depend.

Q In other words, if those were high priced properties, it would weight them in favour of a high price; if a low prices property, it would weight it in favour of a low price?

A I presume that might be so.

Q And a sample that is weighted is not a fair sample, isn't that correct?

THE COMMISSIONER: Are you suggesting the valuations were too high?

MR. McMASTER: No. I will be suggesting subsequently they are too low.

A I do not think I have any answer to give tothat. It is a technical question.

Q You haven't any idea if you have properties weighted in that manner --

A I don't know what you mean by weighted, as a matter of fact.

THE COMMISSIONER: It is really argument, is it not, Mr. McMaster?

MR. McMASTER: No, it is a matter of evidence, but Mr. Shears holds out he has no special knowledge that would enable him to say yes or no, I take it.

Q Now, I would like to turn next, witness, to page 115, Volume 6 of the Public Accounts Minutes. There appears there a list of properties which were withdrawn from the Veterans' Land Act offer and subsequently advertised and sold. Those were subsequently advertised and sold by the Custodian?

A Yes.

MR. McMASTER: Now, my lord, I have prepared, and I gave to my learned friend before the afternoon session, a Schedule that sets out the information contained in the Table on page 115 of the Reports, but which adds to it the assessments on the various properties which were provided to me by the witness. I wouldask my friend to admit that to be the case, or otherwise I will examine the witness on it.

MR. HUNTER: Ask the witness. I know nothing about it.

A I supplied the assessed valuations on this particular group of properties.

THE COMMISSIONER: Are you proposing to put that in?

MR. McMASTER: Yes, but I suppose I will have to go further and prove the assessments he has supplied.

MR. HUNTER: If there is a mistake there, it can be corrected later. I haven't any suspicion that Mr. McMaster will put in anything that is inaccurate.

MR. McMASTER: Very well. I would ask to file it as an exhibit.

(SCHEDULE MARKED GENERAL EXHIBIT NO. 35)

Q Now, witness, as I understand it, all of these properties were withdrawn from the Soldiers' Settlement Boardsale with the exception of No. 390 and No. 101. A: I am afraid I haven't the same list as you are using.

Q I refer to page 115 of the Public Accounts Minutes. Perhaps you might have this in front of you, Mr. Shears (producing). Now, No. 390, about half way down the page, you will notice two blanks under "Appraisal" and "Offer". Was that in the original Soldiers' Settlement Board deal?

A I believe it was.

Q What is the reason that in the Table in the Public Accounts Reports there is nothing shown for the appraisal or the offer from the V.L.A. with respect to that property?

A I am not sure whether I had better obtain that information.

Q You don't know at the moment?

A I don't know at the moment.

Q I take it the same comment applies with regard to

101. A: Yes.

Q You don't know whether it was included or not?

A No.

Q Referring to the exhibit just filed, it shows first of all the number, which I take it is the J.L. number, that is the Soldiers' Settlement Board number, in the first column.

A Yes.

Q That is the J.L. number that the Soldiers' Settlement Board put on the appraisal?

A Yes.

Q And the next column shows the appraisal made by the V.L.A. A: Yes.

Q And the next column shows the offer made by the V.L.A.? A: Yes.

Q Which I presume is arrived at by deducting slightly under 2% from the appraisal.

A Yes.

Q The next column shows an appraisal which the Custodian had made some time close to the sale of the property by the Custodian?

A That is true.

Q And the next column shows the sale price which the Custodian actually received?

A Yes.

Q And the next column shows the date thatit was sold by the Custodian?

A Yes.

Q The next column shows the assessment value, showing first the improvements, then the land, and

the total of the improvement and the land on assessment? A: Yes.

Q Now, in every case that appears on that exhibit, Mr. Shears, was the appraisal made by the Custodian close to the date of sale?

A Approximately, yes.

Q What do you mean by approximately?

A Well, within a matter of generally speaking one or two months.

Q And those were made not by Soldiers' Settlement Board appraisers, I take it.

A No.

Q And the reason why these properties were withdrawn was one of three. One was because you couldn't get the titles to it.

A Thatis true.

Q Some person having died or because encumbrances were greater than the price offered by theCustodian? A: Yes.

Q And what was the third?

A Was there a third? I can't think of a third at the moment. There may have been other reasons.

MR. HUNTER: There was difficulty in ascertaining, perhaps, the acreage or something like that, and various other reasons of that kind.

MR. McMASTER: Q: My point is, it was purely more a selective basis for withdrawing than it was purely by chance.

A The Custodian didn't feel he was in a position to transfer that particular property for some

reason such as an estate had to be wound up or, in some cases, there might be the possibility of clarifying the actual Japanese interest in the property.

Q It in no sense was considered the property was either good or bad?

A No relation to that at all.

MR. McMASTER: Now, my lord, I have had prepared and supplied to my learned friend a breakdown of that Table, which shows the sales in 1944 and in 1945.

MR. HUNTER: All of them?

MR. McMASTER: All of them as appear in that Table.

MR. HUNTER: As appear in Exhibit 55.

MR. McMASTER: Yes, with the exception of the two, where the appraisal and offer of the Soldiers' Settlement Board doesn't show. Those weren't included.

Q Before I come to that, however, witness, I draw your attention to the totals on the second page of Exhibit 55. That is the total Soldiers' Settlement Board appraisal on those properties was $39,591.00, the offer $38,876.00, your private appraisal was $73,312.00, and the sale price $82,183.50. How do you account for the very large increase in the sale prices by your private sales for those properties in relation to the offer which was made by the Soldiers' Settlement Board? A: The offer of the V.L.A., of course, was made as at January 1st, 1943.

Q Just a minute. There is going to be some dispute

as to that.

THE COMMISSIONER: There is only one person who is giving the evidence. I must take Mr. Shears' answer.

A These sales were made during 1944 and 1945 and some during 1946, and there is therefore the element of an increase in market value of properties from the date of the V.L.A. sale and of the date at which these properties were sold.

MR. McMASTER: Q: Do you suggest that that is the only reason for the increased price, witness?

A I don't know that I am qualified to suggest another reason. It is a straight question of valuation. There was one valuation made one date and we had valuations made at other dates, and on the basis of those valuations and the fact they were advertised for tender --

Q You have been dealing with the sale of property over the last three or four years. What is your estimate as to the increase in the market value between January 1st, 1943, we will say, and the same date in 1944?

A I wouldn't wish to attempt a percentage, but I would say it would not be as much as the differences indicated on the Schedule.

Q And the difference between January 1st, 1943, and January 1st, 1945, on would be the difference, in your opinion, in the sale prices that were prevalent? A: I think there was quite an upward trend in prices starting at that time.

Q At what time? A: The end of 1944 and during 1945.

Q But not during 1944?

A Not particularly pronounced, I would say.

Q And how much would you say the 1945 prices were above the 1943 prices?

A There again I wouldn't care to put it by way of percentage. I would say again I scarcely think the difference would be as much as indicated in the relationship between these figures.

Q Did the Advisory Committee not keep track of market trends and prices.

A They were guided by the appraisal being made close to the time at which sales were made.

Q And you relied entirely upon the one appraisal or, if you had more than one, on several?

A The appraiser, of course, was taking into consideration the market price at the time.

Q You assume he was?

A That was his instructions.

Q And your Committee made no check on that?

A No. There were occasions when they asked for another appraisal to be made.

Q But it made no check on what the market prices were? A: The market value was reflected in the appraisals as at the time they were made.

THE COMMISSIONER: Mr. McMaster, we have men on this Board experienced in real estate business -- for instance the Mayor of New Westminster --

who obviously must have some knowledge of things of that kind. Is it to be expected that in addition to that, the Board would employ more than one appraiser?

MR. McMASTER: Now, my lord, I mentioned I have ~~xxx~~ extracted from Exhibit 35 the sales made in 1944 and 1945 by the Custodian, excluding the two ones in which there is nothing shown for appraisals by V.L.A., and I would like to file that, if I might.

(EXTRACT FROM EXHIBIT GENERAL #35 REFERRED TO MARKED EXHIBIT GENERAL 36).

Now, Mr. Shears, I draw your attention to the fact that this statement just shows the total assessment in the right hand margin, but the other information is the same as appears on Exhibit 35.

A Yes.

Q And I draw your attention to the year 1944. There are, if I remember rightly, 15 J.L. numbers. although one number, 121, apparently included three properties. A: Yes.

Q So that actually there are 18 properties involved, although 15 cases.

A That is true.

Q And I draw your attention to the difference between the offer from the V.L.A. of $12,953.00 for those 18 parcels and the sale price by the Custodian in 1944 for $28,937.00.

A No, $29,995.00.

Q I am sorry, yes, $29,995.00. Can you account for the increase in the sale price in 1944 over 1943 in view of the evidence you have just given on private sales as distinguished from Soldiers' Settlement Board?

A No. It can only be accounted for by some increase in real estate prices, but not to the extent shown.

Q I put it to you quite frankly that in those cases, at least, the Soldiers' Settlement Board appraisals must have been far too low, in all fairness?

A Unless the particular purchasers of these properties had some reason for buying them.

Q Purchasers usually have some reasons.

A But there are sometimes reasons why purchasers will pay more than the market value of a property.

Q Have you any evidence that that situation existed with respect to any one of these 18 parcels of land? A: No.

Q And if there wasn't some such factor with regard to the purchaser, would it not be fair to imply that the Soldiers' Settlement Board appraisals on these 18 parcels of land are grossly below their fair value?

THE COMMISSIONER: Are you not asking Mr. Shears to assume a function I have?

MR. McMASTER: I am asking him for an opinion, my lord.

THE COMMISSIONER: I do not know he is competent to give an opinion. You need not answer that, Mr. Shears.

MR. McMASTER: Q: Now, I draw your attention to the fact that those sales in 1944 are approximately two and a quarter times the offer.

A That is true.

Q I would like you to look at the statement for the sales in 1945, and I think you will find 15 parcels of land there.

A Yes.

Q And the offer by the Soldiers' Settlement Board for those 15 parcels was $16,452.00.

A Yes.

Q And the Custodian sold them by private sale at $31,978.50. A: Yes.

Q Can you account for the increase over the appraisal of the Soldiers' Settlement Board with regard to those 15 parcels?

A Only by the same yardstick I mentioned before -- the increase in value.

Q But you have no knowledge as to whether the market generally had increased that much?

A No specific knowledge, no.

Q I draw your attention to the fact that is a little under two times the offer of the Soldiers' Settlement Board?

A Yes.

Q And if these cases represented individual market trends, than the market would be lower in 1945 --

MR. HUNTER: He is continually asking the witness to draw conclusions, which after all is your lordship's prerogative.

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

MR. McMASTER: Very well, my lord.

THE COMMISSIONER: I calculated the '44 sales of these properties is equivalent to 230% of the Veterans Land Act offer. I haven't attempted to work it out to a decimal point, but that is approximately correct.

MR. McMASTER: Yes, and the '45 would be a little over 200.

Q I would like you to look at that statement again with regard to those specific properties included in it. I refer particularly to No. 489 a property appraised by the Soldiers' Settlement Board of $453.00 and which you sold for $1500.00? That is about a 300% increase in 1944?

A Yes.

MR. HUNTER: A 200% increase.

MR. McMASTER: Yes.

Q No. 95, is a property on which the Soldiers' Settlement Board offered $131.00 and the sale price was $1,000 in 1944? A. Yes.

Q And that is quite a substantial increase?

A Very definitely.

Q Then in the 1945 sales a property for which the Soldiers' Settlement Board offered $25.00 -- No.375, -- was sold by the Custodian in 1945 for $325.00?

A That is so.

MR. HUNTER: I can't see that the witness is of any use in this. If Mr. McMaster wishes to continue, I have no objection but why he is asking the witness to concur in what he is reading, I can't

understand.

MR. McMASTER: Q: When the Custodian became aware of this difference between the price which he was getting on private sales and the offer which the Soliders' Settlement Board had made on these properties, did he take up with the Department of Veterans Land Act the subjectof the basis of the sale which originally had been made?

A I am not aware that it was ever done.

Q Now, Mr. Shears, were there other properties withdrawn from this sale besides the properties listed at page 115 of the Public Accounts reports?

A Other properties withdrawn from the original offer?

Q Yes? A. Yes, there were other properties withdrawn.

Q And is there any schedule that appears in the Public Accounts Report of those properties?

A No.

Q Is there any mention of those properties in the Public Accounts R eports?

A No, I don't think so.

Q How many were there?

A The difference between 42 and 67 -- approximately 25.

Q The properties of which you speak were they Japanese owners of those properties?

A No.

Q I am referring to properties where the owner was a person of the Japanese race?

A I do not recall that there were any others withdrawn

of that character.

THE COMMISSIONER: If you think there were, why not put the direct question to him, Mr. McMaster?

MR. McMASTER: Q; I would like to refer to a case which was heard in Toronto, No. 1018, the case of Mrs. Kin Yahiro .

THE COMMISSIONER: Was it heard by myself?

MR. McMASTER: Yes, my lord.

THE COMMISSIONER: Yes, it must have been because a sub-commission hasn't started.

MR. McMASTER: Q: Is that case included in this list of 43 cases?

A I couldn't say.

Q I produce to you then a copy of the list which you gave me the other day .

MR. HUNTER: I don't see that we need go through this. If it is not in the list, let Mr. McMaster say so. I will take his word.

MR. McMASTER: I want to examine him with regard to it. I also want to know if it is possible there are other cases.

THE COMMISSIONER: I think, Mr. McMaster, that in fairness to Mr. Shears, and the Custodian's office, you should inform them in advance of anything of this description. You cannot expect anyone to keep all these things in his head.

MR. McMASTER: I can believe that. I must confess I only got it out of my files last night.

THE COMMISSIONER: What I suggest you do is, that after we adjourn tonight you let Mr. Shears know what is

the information you seek, and I have no doubt he will endeavor to get it for you.

MR. McMASTER: Very well, my lord. I can give him the case number, and perhaps we can deal with it in the morning.

THE COMMISSIONER: Very well.

MR. McMASTER: My lord, I am through my part of the examination on the V.L.A. with the exception of one or two matters which were stood over until the morning.

THE COMMISSIONER: Yes. Is there anything other counsel wish to go on with.

MR. VIRTUE: I have only a matter of three or four questions, and if your lordship pleases, I would just as soon wait until morning and discuss them with other counsel, and probably save time that way.

THE COMMISSIONER: Very well. What are we to go on with after Mr. Shears?

MR. HUNTER: You mean which witness, my lord?

THE COMMISSIONER: Yes.

MR. HUNTER: It is not set definitely. I may have to re-arrange them, because certain witnesses can only get here certain days, but it was contemplated that Mr. A. E. McMaster would be the next witness.

THE COMMISSIONER: That is in regard to fish boats and so on?

MR. HUNTER: Yes.

THE COMMISSIONER: I think it might be well, insofar as you can, toadvise counsel for the Japanese as

to the order in which you hope to take these witnesses, because we may be running into snags; they won't be instructed to go on with cross-examination.

MR. HUNTER: I have already given them the names of the witnesses, which is rather an unusual procedure in litigation.

THE COMMISSIONER: Quite.

MR. HUNTER: And I think that was fairly generous, and I told them the proposed order, but I cannot definitely say because there are certain days they can't be here.

THE COMMISSIONER: NO, so long as they know what they have to meet and are not going to be asking for adjournments to get instructions.

We will adjourn now until ten o'clock in the morning.

(ADJOURNED AT 4.p.m. to 10 a.m. SEPTEMBER 23rd,)

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

Deputy Official Stenographer

Vancouver, B.C.,

September 23, 1948, 10:00 A.M.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: Shall we hear your application first of all, Mr. McMaster?

MR. McMASTER: Very well, my lord.

THE COMMISSIONER: The first one I have before me is that of Tomekichi Maikawa, and I gather from Mr. Hunter the Government is inclined to oppose this application, is that correct?

MR. HUNTER: Yes, my lord, very definitely.

MR. McMASTER My lord, I haven't any instructions on that case at the moment, but the facts are, I am afraid, as counsel for the Crown alleges, but it would perhaps be good enough to produce from the Liquidator, or someone who has the definite information some proof that might satisfy us that the majority of the shareholders were in Japan at the appropriate date, and under those circumstances I agree with his line of argument.

THE COMMISSIONER: Have you got that information now, Mr. Hunter?

MR. HUNTER: I have a statement here showing the share holdings and I only have the personal word of the Liquidator, and this letter was written and shows that out of the 1257 shares, 1167 were held by Tomekichi in Japan in 1941 and he advises me the man has never returned here and accordingly was not in Canada on the 19th of July, 1947, the date mentioned in the order.

MR. McMASTER: The only thing I have in the back of my mind is I don't know how counsel sent that application in, and I would like to check on it to see whether the person in Japan was the actual owner of the shares or just the registered owner.

THE COMMISSIONER: There is nothing in the material here that I have that will assist you. Perhaps it would be better if you stood this down until Monday morning. Would that give you enough time to consider it?

MR. McMASTER: It is immaterial to whom he made the representations.

THE COMMISSIONER: That is all the material that I have.

MR. McMASTER: I see the affidavit was sworn in Toronto, and Mr. Brewin has no recollection of it and I see there is a letter from Mr. Good in theCustodian's Office. How did that come into the hands of theSecretary?

THE SECRETARY: It came from the Custodian to us.

MR. McMASTER: Well, I presume the Custodian sent it to him and that that information I would have to wire the solicitor who made the representations.

THE COMMISSIONER: Perhaps some of your assistant counsel could get that information for us, and it might be possible to deal with it today.

MR. HUNTER: I am quite confident that everything we have has been turned in to the Secretary.

THE COMMISSIONER: Will you turn that over to one of your associates and see if you can get the information and I will stand that down.

And the next one is Suye Ebeta.

MR. BREWIN: My lord, the facts are set out in the declaration by this witness in this matter, and your lordship will see that the circumstances were that Mrs. Ebeta is quite an old lady and a widow and that her husband, whowas theowner of the property, died two months before the appointment of the Commission, and at that time she was in British Columbia in the camps here, and she then went to Montreal to reside with a son or son-in-law. She is quite an old lady. She speaks no English at all and she says in her affidavit that she did not become aware of the importance of this claim to take any interest in this matter or understand it until a few months ago, when she went to Toronto and there she lived with a nother son-in-law who told her what it was all about, and at that time she became aware as to what her rights were and made a claim, and I would ask that special indulgence be granted to her under the circumstances.

THE COMMISSIONER: What have you to say about it, Mr. Hunter?

MR. HUNTER: When this woman went to Montreal, she was living with her daughter. That is true. And she was also living with her son and there is correspondence in the files from her son, written in almost perfect English, and she was in Montreal at the time with this son and until very recently, as she states in her affidavit, she went to

Toronto, and I believe her son went with her, but I know she was living with her son and he is quite fluent --

THE COMMISSIONER: When was the last date of the letter from her son?

MR. HUNTER: The last one was the 25th of August, 1947. but the point that I wish to make is she was living with him and he was fluent in English and knew all about it, and it is almost incredible he would not discuss the matter with his mother. And whilst your lordship may have to accept the sworn statement rather than this inference, it is questionable whether that sworn statement represents the facts.

THE COMMISSIONER: What was the correspondence that the Custodian had with the son?

MR. HUNTER: He has written throughout the years, but this one of August 25th, 1947, says "In regard to the administration . . . . . as soon as possible." Well, that is in his handwriting and signed by him, and it does seem incredible that he would write a letter like that and not know what was going on.

THE COMMISSIONER: And that is your only ground of objection?

MR. HUNTER: Yes, that is the only objection.

THE COMMISSIONER: Well, my disposition is to give him the benefit of the doubt. This affidavit is made very late, but in view of the application I would direct the time and set it down for

hearing before the Commission in Toronto next month.

MR. BREWIN: I know your lordship wants to be fair to her. I was interested myself and the story is that she was in a state of ill health and so on.

THE COMMISSIONER: Oh well, I have dealt with it now.

MR. HUNTER: My lord, we have checked with the Custodian's office and there is no lawyer involved in this case of Tasako Sato.

THE COMMISSIONER: Mr. McMaster, does that change the picture as far as you are concerned?

MR. McMASTER: Well, it means that I am not representing her, my lord, and anything I have said is immaterial.

THE COMMISSIONER: Could youobtain an affidavit from the Liquidator, Mr. Hunter?

MR. HUNTER: Yes, my lord.

THE COMMISSIONER: Setting out shortly the facts you have given me this morning?

MR. HUNTER: Yes, my lord.

THE COMMISSIONER: I will direct, then, that that affidavit be filed and that this matter can stand until Monday to be disposed of then. Will you make a note of that, Mr. Secretary?

THE SECRETARY: Yes, my lord.

THE COMMISSIONER: Now, the next one is Y. Murikama. This, too, is an application presented through Mr. Brewin.

MR. BREWIN: This is the claim for $71.00. Miss Murikama does not live here, she lives in some remote part of Ontario, but if the statement

in the letter is correct, as I recall it, the records of the Custodian will explain the reason for the delay.

THE COMMISSIONER: Well, this is a camera claim, and the policy of the Custodian, as I understand it, is to return all cameras. Isn't that so?

MR. HUNTER: Yes.

THE COMMISSIONER: Have you any information about this particular claim?

MR. HUNTER: I know nothing about it.

THE COMMISSIONER: That will have to stand down until Government counsel can investigate the matter, and I will leave this correspondence with you, Mr. Hunter.

The next is that of Daley Kobayashi. It seems that I have some of the Committee's money, Mr. McMaster.

MR. McMASTER: That is about the only instructions I have had.

THE COMMISSIONER: You do not know anything about it?

MR. McMASTER: I am sorry, I have not been advised on it. Mr. Watson showed me the letter the other day.

THE COMMISSIONER: It came direct from the individual in Montreal. Have you any instructions on this, Mr. Hunter?

MR. HUNTER: No.

THE COMMISSIONER: Well, this will have to stand over, too, and I will leave this correspondence with Mr. McMaster and perhaps you will be ready to

speak to it on Monday.

The next is Honyeman Hayash, case No. 158, and there is a letter here from Mr. Hayash. Were you instructed on this?

MR. McMASTER: No, I am afraid not.

THE COMMISSIONER: Well, I suppose Mr. Hunter knows nothing about it either?

MR. HUNTER: No, my lord.

THE COMMISSIONER: Well, I will make the same direction in this as the last one. The Secretary will see that counsel is informed as to the nature of this application, so that they can be ready to speak to it on Monday.

Now, referring particularly to the corporate claims, Powell Lumber & Fuel Company, Limited, through their solicitor, Mr. J.B. McPhee -- he has written under date of September 3,1948, advising that he is instructed not to proceed with the claim. For the purpose of the record, I will direct the filing of Mr. McPhee's letter and the claim will be struck off the list.

MR. HUNTER: Just to make the record clear on that, I wonder it the Secretary could have the letter sent to the Custodian or Mr. McPherson?

THE COMMISSIONER: Yes will you write Mr. McPherson what has been done with this claim this morning?

THE SECRETARY: Yes.

THE COMMISSIONER: And the same applies to the claim by the Maple Ridge Produce Exchange, for whom I understand you act, Mr. McMaster.

MR. McMASTER: That is correct, my lord.

THE COMMISSIONER: They decided to withdraw their claim?

MR. McMASTER: Yes, my lord.

THE COMMISSIONER: The same disposition will be made of that claim.

The claim of the River Fish Company, Limited, by an arrangement between counsel, with my approval, has been directed to be sent down to Winnipeg and the same disposition has been made of the claim of Ocean Fisheries, Limited, except that it will be heard by the sub-Commission in Toronto. I think that is everything, Mr. Hunter?

MR. McMASTER: My lord, there is one further application. My learned friend, Mr. Brewin, saw me some time in June, asking that I speak to it. As counsel is not here, I take the opportunity to do this and I would ask you to file the claim with the affidavit in support. I spoke to my learned friend last night about it, and Mr. Brewin may have something to add to it. It is a claim that has already been presented at Grand Forks before the sub-Commissioner. It relates to property that was held in partnership in Vancouver, and the partner in Grand Forks also presented a claim in regard to his own half interest, and I think the Statutory Declaration sets out that the other partner had assumed that the partner in Grand Forks would be presenting a claim for the whole interest, and it would not be necessary for him to file a separate claim; and in view of what

the partner in Grand Forks has done, he wants to protect himself and claim for his half interest.

THE COMMISSIONER: Do you think there is any necessity for this claim being ~~fa~~ filed independently and separately proven? Could we not make the same disposition of this as in other claims?

MR. McMASTER: Well, Mr.Brewin is acting in this and I think it would be advisable to send counsel a transcript of the evidence to show the claim is reasonable -- I don't recall whether the claim was reduced or not . It seems most likely to me -- as we have done it in other cases, you would be agreeable that the evidence be taken on his behalf as well.

THE COMMISSIONER: There appears to be a claim in respect of lands developed for a nursery business, so presumably the evidence that has been led at Grand Forks proves the value of the land in accordance with that part of your claim, so all this man would be doing would be proving the value of the other half.

MR. McMASTER: I would expect that to be true, yes.

THE COMMISSIONER: I think perhaps the best solution would be for you to communicate with counsel and advise them of the nature of the proof as already being produced, and ask them if they are prepared to treat it as a joint claim. Would that be satisfactory to you, Mr.Brewin?

MR. BREWIN: Yes, it would.

THE COMMISSIONER: All right, we can deal with it later

when you are instructed. I shall have to leave it in the hands of counsel to bring this up again. You will be responsible for the follow-up.

MR. McMASTER: Well, in those circumstances, if the Secretary would be good enough to write me a letter to that effect.

THE COMMISSIONER: Very well, Mr. Secretary, let Mr. McMaster know that we expect to hear from him and there will be no disposition made of it until we do.

THE SECRETARY: Is that all you wish to say?

THE COMMISSIONER: Yes. Are those all the applications?

MR. McMASTER: Those are all the applications, my lord, but I understand my learned friend, Mr. Virtue, wants to ask the witness some questions, but there is one further matter that I would like, very shortly, to put to the witness.

THE COMMISSIONER: Very well.

. . . . . .

FRANK GOULD SHEARS, resumed stand and testified further as follows:

CROSS/EXAMINATION CONTINUED BY MR. McMASTER:

Q Mr. Shears, at the time of this transaction with the Veterans' Land, was in the course of negotiation or contemplation, did the Custodian or his representatives, either at the Committee meeting or otherwise, have in mind the possibility that some day there might be set up some Inquiry into these transactions?

A Not that I am aware of, beyond the fact that in my original instructions, right when I came into office, that was, that I always had to have in mind doing things in such a way that if there was any possibility of criticism later, that our records and our method of proceeding would be in order and would stand criticism.

MR. McMASTER: Q:Did the Custodian or his representatives at any time during those proceedings, or the Committee, have in mind the possibility that if these lands were transferred that figures and prices would be reasonable to the soldier when he returned, that the Japanese might have some claim that would be considered by the Government?

MR. HUNTER: How could Mr. Shears know what these people had in their minds?

MR. McMASTER: Well,I will ask Mr. Shears if he had it in mind himself.

A Will you frame the question differently. I do not understand it.

Q At the time, did you, as representative of the Custodian, have in mind that if these lands were transferred to the V.L.A. for the purpose of giving the returning soldiers a break, that the Japanese claimants would some day have an opportunity to claim for any discrepancy in the value?

MR. HUNTER: I must object to that -- when Mr. McMaster says these lands were transferred to these people for the purpose of giving the soldier a break, that has not been proven.

THE COMMISSIONER: I do not see what bearing it has,-- what possible bearing can it have on this investigation, Mr. McMaster?

MR. McMASTER: My lord, if it is a fact -- not necessarily that Mr. Shears had it in mind himself, but if it is a fact that the Committee considered the possibility the Japanese might be compensated at some future date, it might be a reason in their minds for agreeing to sell lands at a special price to the Veterans' Land Act.

THE COMMISSIONER: My view is that the atmosphere you are seeking to create is so foggy and nebulous it cannot be of any help to me, and the question is objectionable.

MR. McMASTER: Well, it may be I will be calling evidence to show that that proposal was discussed, and that is the reason, frankly, why I would like to know from this witness whether it was discussed.

THE COMMISSIONER: Well then, will you put it on a basis as to whether there was a discussion about it or not?

MR. McMASTER: Q: Are you aware whether there was a discussion at any of the meetings,or any of the Committee meetings as to the possibility that the Japanese owners of these lands might be able to make claims at a later date for any alleged undervaluation in the sale of their lands?

A I would say a general discussion took place on the basis the deal itself would have to stand

on its own merits.

Q Will the witness be good enough to answer the specific question I put to him?

A Yes.

Q I am sorry. I don't think I understand you -- your answer to my question is yes?

A You are asking if there were any discussions along the lines that you mentioned. Is that your question? It has been so involved.

Q I am sorry. I will try to make it simpler. At any of the Committee meetings, was ther any discussion of the possibility that Japanese owners would at some later date have an opportunity to make claims in respect to the sale of their property, as to what they considered to be under value-- in connection with these sales?

THE COMMISSIONER: It is frightfully involved, Mr. McMaster. If you are anticpating calling some evidence on this point, why not put the direct question?

MR. McMASTER: Well, I have been tryigg to put it as directly as I can. Perhaps I am not very sharp this morning, but it seems to me the direct question is: Was any direction made at the Committee meetings that the Japanese owners would have an opportunity subsequently to make claims with respect to these lands?

A Yes, I would say yes, if there was justification for it.

THE COMMISSIONER: You will notice Mr. McMaster puts

his question"would".

MR. McMASTER: Q: What was the basis of the discussion: That the door would be thrown open to them, or might be? A:Definitely not. It is a question that I cannot answer yes or no, but in one sense it was discussed that any properties that were sold had to rest on their own basis, so that if any complaint was later made that the deal itself would be justified. I think that is all I can say, sir.

THE COMMISSIONER: Is that all, Mr. McMaster?

MR. McMASTER: Yes.

THE COMMISSIONER: How about you, Mr. Virtue?

MR. VIRTUE: I do not expect to be longer than half an hour at the most on my questioning the witness.

CROSS-EXAMINATION BY MR. VIRTUE:

Q I refer you to Public Accounts evidence at the beginning of 226 and the top of page 227.

A What volume?

Q Volume 9. That is your last answer:

"I think what Mr. McPherson was doing at this meeting"--

A Well, what is the question,I shall have to read it, I guess.

Q Your last answer and down to 227. "Are these farmlands?" -- if you would not mind reading that -- I want to ask you a question on it. Do you still agree with that statement?

A Yes. That particular statement, do you mean?

Q Your answer beginning, "I think what Mr. Mc Pherson was doing" and from there on down, "of these farm lands"?

A "Of these farm lands or any other lands." You gave that evidence?

A Yes, I gave that evidence.

Q And you still agree with it?

A Yes, I still agree with it.

Q Now, Mr. McP herson came from Ottawa to say that to the committee, and I am using your own words --for the first time in March, 1943.

A Mr. McPherson came to Vancouver in March, 1943, and had contacts with the Advisory Committee.

Q And that was the first time Mr. McPherson mentioned the D.V.A. deal to theCommittee?

A Very definitely. The Committee had only been set up three or four days before that.

Q Now, in your minutes at page 1 of the Rural Advisory Committee, you refer to that fact, don't you? You don't need to read them.

A Yes.

Q Just read part of page 1 and you will see it refers to that fact.

A Yes.

Q Now, up to that time -- that is up to March 15, 1943, there had been no Rural Advisory Committee?

A That is true.

Q The RuralAdvisory Committee was called together then for the first time and had its first meeting?

A:This was the

first meeting, yes.

Q So that this proposal with regard to the D.V.L.A. and the first meeting and organization of the Advisory Committee were simultaneous?

A Practically so.

Q Yes. So up to that time there had been no policy as you say on page 227, of liquidating these farm lands or any other farm lands?

A There had been farm policy, but it had not been implemented.

Q Well, what was the --

THE COMMISSIONER: Let us have his answer before you put another question.

A I am checking up on the matter of dates again, sir.

MR. VIRTUE: Q: Before you answer that question, I would like to call your attention to page 225: "We can go evern this far -- it was Government policy there should not be any sale to the public"?

A That is true.

THE COMMISSIONER:

Q That relates to farm lands, I take it.

MR. VIRTUE : Yes, and I am only speaking of the D.V.L.A. deal and all I am dealing with is the policy of liquidating the Japanese farms was arrived at simultaneously with Mr. McPhersson's arrival from Ottawa and his propesal on the D.V.L.A. Isn't that true?

A Yes.

Q Now, you don't need to answer this unless you want to, but I suggest to you it is a fair infer-

-ence the policy of liquidating the Japanese farm lands was brought about by the proposal from the D.V.L.A.

A I have no information regarding that.

Q And at any rate, you can answer this. It was brought to a head by that. Isn't that correct?

A That is the first time that there was any implementing of the policy.

THE COMMISSIONER: You are not overlooking the fact, Mr. Virtue, that Mr. Shears has said in-chief he had no instructions of any kind to sell any Japanese property, whether farm land or otherwise, until about this date in 1943?

MR. VIRTUE: And the actual arrival of Mr. McPherson at this meeting --

THE COMMISSIONER: You are overlooking what I said, Mr. Virtue. He said he had no instructions to sell any Japanese property until March, 1943.

MR. VIRTUE: Yes.

MR. HUNTER: My learned friend, my lord, is making a statement -- this did not happen until Mr. McPherson arrived, and the witness has stated that he was called to Winnipeg by the Under-Secretary of State and the policy of implementation would be implemented forthwith.

MR. VIRTUE: Q: That was later, wasn't it?

A No.

Q What date? A: On March 10th -- no, I beg your pardon, I am sorry-- that is wrong.

Q I realize it is hard for you to look up all your notes, and I will put it to you this way--

THE COMMISSIONER: We will wait until he gets it.

MR. VIRTUE: All right.

THE COMMISSIONER: Now, will you put the question, Mr. Virtue?

MR. VIRTUE: Q: Well, I did not ask the question but it was suggested that prior to Mr. McPherson's arrival at this Advisory Committee meeting on March 15th, 1943, you had gone to Winnipeg.

A No, that is not correct.

Q That is not correct.

A No.

Q You went to Winnipeg afterwards?

A Yes, afterwards.

Q Now you can look at the minutes again if you wish to confirm this. But I suggest to you that you got your first advice as to the appointment of an Advisory Committee and the names of the members at that meeting on March 15th, 1943?

A That would be true.

Q That is true?

THE COMMISSIONER: I would like to know just what his answer means. That relates to the Rural Advisory Board. Do you understand the question? You were asked when you were first advised as to the constitution of the Rural Advisory Committee and its personnel.

A It would be around the first week in March, 1943.

MR. VIRTUE: Q: So that we can assemble these four

facts together, then: The first meeting of the Advisory Committee, the organization of the Advisory Committee, your advice as to the names and the constitution of the Advisory Committee, and Mr. McPherson's arrival with the D.V.L.A. offer-- they were all practically simultaneous.

A Within a limit of time, yes.

Q Well now, what do you mean?

THE COMMISSIONER: The witness is not clear and I do not think the question is very clear. The witness has told you he got his advice with regard to the Advisory Committee in March, 1943.

MR. VIRTUE: That is when thefirst meeting was held.

THE COMMISSIONER: He got his advice in March, 1943, and McPherson arrived in July, 1943.

MR. VIRTUE: No, in March, 1943.

THE COMMISSIONER: If you would confine yourself to putting questions and try to refrain from making speeches,I would be able to follow you better.

MR. VIRTUE: I am very sorry if my question is not clear.

Q Will you just confirm or otherwise the meeting with Mr. McPherson was on March 15th,1943?

A That is true.

Q That is true -- so it is correct -- or will you correct me if I am wrong: That Mr. McPherson's arrival from Ottawa with regard to the D.V.L.A. deal, your advice that a Rural Advisory Committee was appointed, the announcement of the D.V.L.A. deal to you, and the organization of

the Advisory Committee, all took place within a matter of from the 1st of March to the 15th of March? A: No -- you have asked me four questions -- I could say yes to three, but no to the other.

Q Well, tell me which one you will say yes to.

A The actual deal with theVeterans' Land Act.

Q Well, I mean the negotiations for that.

A All that was said at that meeting was that there was a possibility that the Veterans' Land Act might be interested, but there was no discussion of any concrete deal.

Q Well,I shall have to ask you to let me see the minute. Isn't this your minute on page 2?

A All right.

Q "Mr. McPherson also explained. . . . . take over the administration."

A Yes, but there was no suggestion of a concrete offer at that time. That is what your suggestion was.

Q I didn't intend to suggest it. And at the first meeting of the Rural Advisory Committee, is it true your minute showed that Mr. McPherson was present? A:Definitely.

Q Now, I draw your attention to aresolution at page 218 of the Public Accounts Committee proceeding, which I will speak of as the resolution accepting the offer.

A Yes.

Q Now, will you look at paragraph (b) of that

resolution, which reads "The purpose for which such lands are required".

A Yes.

Q Was that correct? That the Committee in arriving at the price and in considering this dealx, took that into consideration?

A Yes.

Q That is, the fact that these lands were going to be used for returned soldiers.

A Yes.

Q Now, I also call your attention to clause (f): "That the custodian . . . . . revenues derived from these lands." Did anyone suggest adding that?

A The discussion and the result of it was that.

MR. HUNTER: Just answer the question.

A Well, no.

MR. VIRTUE: Q: I refer to a question on page 219, which was asked you by Mr. Jennicke -- I presume that is Jennicke: "The consideration . . . . that was not really a good one." I put that to you now.

MR. HUNTER: Does he wish Mr. Shears' views as to whether he thinks it indicates that? I cannot quite follow that type of cross-examination.

THE COMMISSIONER: You have, after all, Mr. Shears' answer made to Mr. Jennicke's question at the time.

MR. VIRTUE: I notice he did not really answer that question and that is why I am asking it now. He did not meet that question directly.

Q Do you want to add anything to your answer now, Mr. Shears? A:I don't think I could.

Q Now,I am going to ask this in your capacity -- I think your official office was Director of Custodian's Office at Vancouver --

A Yes.

Q And I notice this resolution was written and a letter was sent in by his Honour Judge Whiteside.

A Yes.

Q You did not write that resolution?

A The meat of the resolution was done right at the Committee.

Q I am going to ask you this question now. Did you yourself, fully approve of the sale of these lands at this figure?

A I don't think so.

THE COMMISSIONER: I do not think you need answer that question. It is immaterial whether the witness approved or disapproved.

MR. VIRTUE: I asked him in his capacity as Dirctor.

THE COMMISSIONER: In his capacity as Director, he is a representative of a branch of the Government and he is there to carry out the Government policy.

MR. VIRTUE: It occurred to me it go to the question of fair value.

THE COMMISSIONER: I think not, Mr. Virtue.

MR.VIRTUE: All right, I will not press it any further.

Q Now, I want to refer for a moment to a list of

the 43 properties which were discussed yesterday at length, which were sold at a greatly increased price over the D.V.L.A. offer, weren't they?

A Yes.

Q I am just going to ask you: Do you know of any reason why the prices paid for the 43 pardels could not have been obtained for the 769 parcels had the latter not been sold to the D.V.L.A.?

MR. HUNTER: As at what time?

MR. VIRTUE: I will put the question in another way:

Q Supposing these 769 properties had not been sold the D.V.L.A. and you started in on the 1st of January, when your hands were untied, and sold those 769 properties in the same way you sold the 63 parcels -- you have got me now --

A Yes.

Q Do you know any reason why those 769 properties should not have been sold at the same price pro rata as the 63 parcels?

A Some of them would have been sold on the same ratio.

Q Well, speaking generally, wouldn't all -- I am not speaking of the last one, but a general proposition --

A I think it possible that some of the properties would have been sold at that increased ratio.

Q And possibly some would have sold for more?

A No, I don't think so. I think we got the top price.

MR. HUNTER: My learned friend, possibly, is going to

call witnesses to prove something along that line, but how can this witness answer a question like that.

THE COMMISSIONER: He has answered it.

MR. VIRTUE: Q: Now, on page 8 of the minutes -- the first meeting-- may I see that, please? This is very brief, sir, and in order to get any information, I am going to read just six or seven lines and ask you if this was a true minute: "Mr. MacKenzie requested information . . . . rehabilitation of returned men."

THE COMMISSIONER: What is your question?

MR. VIRTUE: Q: Is that a correct minute?

A That is a correct minute.

Q So all you can go on is the information that was given? But according to the information that was given when that survey was made the previous year by the L.V.A., it was understood having the use of those properties for returned men?

A I don't know whether that is a fact or not.

Q I think the information in your minute would disclose it.

THE COMMISSIONER: That, surely,is a matter of argument, Mr. Virtue.

THE WITNESS: I did not make that statement.

MR. VIRTUE: Q: Now, I will ask you to refer to the minutes at page 13, at the foot of the page, and I will ask you if it is correct that Mr. McPherson made this statement:"As to the method of valuing the property . . . . . and not vendors." Is that correct? A:That is the

correct minute.

Q So your Committee, in dealing with this matter yourselves --

MR. HUNTER: I must object to this evidence. I cannot see what evidenciary importance it has. That is something made at the meeting by Mr. McPherson himself, but the opinion of Mr. McPherson has surely no evidenciary value as to the actual fact.

THE COMMISSIONER: It was something that was before the Advisory Committee at the time of this sale.

MR. VIRTUE:Q:All I am getting at is this, Mr. Shears, "That your Committee, as a result of Mr. McPherson's statement, knew that the appraisals on which you relied of the 769 properties more or less had been made on the basis of the viewpoint of a prospective purchaser and not from the basis of the seller. The Committee had that information. A: TheCommittee had that information or had that statement.

Q Now, just in passing. You can refer to your memory if you wish on this, but the minutes of the meeting on page 17 show that Mr. Yamaga(?) was not a member of the Committee at that time. He was appointed after the first meeting.

A Tht is true.

Q That is correct? A: Yes.

Q I am going to ask that Mr. Shears produce, not now but later, a catalogue of rural property for sale. A: They have been

filed and they are in already.

Q I didn't know that.

MR. HUNTER: Yes, they are filed.

MR. VIRTUE: Q: Now, very briefly, would you refer to what is called the J.P. form, at the back of Volume 4, page 86, 87 and 88. I am merely calling your attention to the fact that there was inserted there, "I, the undersigned,". . . . if any." So the Japanese knew from signing that form, and you knew from the date of signing that form that they had turned over to the Committee their property as listed in the form?

A Yes.

Q Very briefly I will refer to the Agent's commission of 5%, which you pay to the agents on the sale of these rural properties -- no, urban properties -- the Vancouver properties.

A Yes, that is right.

Q Now, correct me if I am wrong, but my understanding of the evidence you gave was that the 5% commission was paid to the agent -- whether the transaction was completed direct to the Custodian's office or elsewhere?

A It was paid to the named agent whether that particular agent had made the sale or whether some other agents had made the sale.

Q Now, will you go a little further and say it was also paid if the sale was made direct through the Custodian's office?

A I don't recollect that any offers were directly

received at the Custodian's office. Even if they were, the commission would have been paid to the named real estate agent.

Q Well,may I suggest when the agent knew he was going to get a commission of 5% for the property put opposite his name in any event, that there was no incentive for him to get commission --

THE COMMISSIONER: That is a matter that you can put forward in argument. I d o not think Mr. Shears' views are going to be helpful to me.

MR. VIRTUE: I want to refer you to Mr. Murchison's evidence before the Commission at page 189 and 191. A: What volume is that?

Q Volume 8, where he says, about the middle of the page -- he was asked this question: "So far as the interests of the owners are concerned . . . as vendor in the transaction." Were you aware of that? A:This is a question asked Mr. Murchison.

THE COMMISSIONER: Will you indicate where the question is, I do not see it.

MR. VI TUE: On page 189, about halfway down.

THECOMMISSIONER: That is enough.

MR. VIRTUE: Q: you have got that, Mr. Shears?

A Yes.

Q Were you aware of that when this deal was being negotiated? A: Aware of what?

Q Were you aware of the fact that the Soldiers' Settlement took the position that the protection

of the Japanese was to be considered? "So far as the interests of the owners are concerned, it is fair to say you left it to the Custodian to protect those interests as vendor in the transaction?" A: I had noidea what they had in mind.

Q You didn't. I also refer you to page 191, -- a question by Mr. StewartP: "Of the purchase price? A: When it came . . . .but the veterans for whom I was buying." Were you aware of that?

A No.

Q All right, thank you very much.

THE COMMISSIONER: Any re-examination, Mr. Hunter?

MR. HUNTER: Yes, I am hoping to be able to re-examine him after all the cross-examination is in.

CROSS-EXAMINATION BY MR. McMASTER:

Q I would like to deal with the subject of nets next. You were good enough in your evidence in-chief to tell us certain information that otherwise would have prolonged this cross-examination.

MR. VIRTUE: May I ask one question before you start? It has to do with this.

Q Mr. Shears, I refer you to page 208 of Volume 9. Mr. Murchison's questions and answers, beginning about the middle of page 208 by Mr. Fleming: "May I come back to one point . . . . . A: No, I reported them to the Governor-in-Council." Is that correct that Mr. Murchison never reported them to you? A:That is correct.

THE COMMISSIONER: Yes. You might now proceed, Mr. McMaster.

MR. McMASTER: WEll, my lord, ifyou are going to take a brief recess, it might be well to do so now.

THE COMMISSIONER: Yes, we will take a recess now for a few minutes.

(PROCEEDINGS RESUMED AFTER SHORT RECESS).

FRANK GOULD SHEARS, resumes stand:

CROSS-EXAMINATION CONTINUED BY MR. McMASTER:

Q Mr. Shears was good enough to remind me during the recess that I overlooked referring to the cases that were withdrawn from the D.V.L. sale, in addition to the 43 cases that I listed in Volume 46 of the Public Accounts.

Mr. Shears, I was asking you yesterday how many cases were withdrawn from the D.V.L. Deal, besides the cases that are listed at page 116 of the Public Accounts Report and which is referred to in Exhibit 35.

MR. HUNTER: I presume my friend means how many parcels.

MR. McMASTER: Yes, how many parcels.

A That would be 26.

Q And were you able to prepare the information that I have requested with regard to those 26 cases? A: I had the information, but I thought you were only asking about one particular case -- the withdrawal of the property.

Q I am sorry, I thought I requested information

with regard to all of them.

A Well, the information is readily available. I have only my one copy here.

Q You have the information of the 26 there?

A Yes, definitely.

Q May I see that? A: I can have a copy made and filed. That was on my records. That has not just been prepared.

THE COMMISSIONER: This is in addition to the 23 that were previously mentioned, is that it?

MR. McMASTER: Yes, my lord.

Q Now, this was prepared by yourself, Mr. Shears, or you had it prepared for you?

A That was prepared a long time ago in the office.

Q And the information is correct?

A I believe it to be.

Q And this information includes this specific case to which I refer, does it?

A No, it doesn't. The one to which you refer is not in that, and that is what I thought you were asking me.

Q Well, in addition to the 43 cases there was another 26 cases that were sold.

THE COMMISSIONER: Let us get the answer.

THE WITNESS: There were 69 properties withdrawn from the deal. 26 of them were withdrawn for reasons which I think I mentioned yesterday -- no interest in them and so forth; and 43 were sold, and the exhibit is already in. There is no change in the figures that have gone in,

except that Mr. McMaster asked me in one particular specific case -- he could not see it was withdrawn and I can answer that question.

MR. McMASTER: I am sorry, my lord, It has become confused.

Q I would like to deal now with this document you have produced and I will ask to have it marked as an exhibit.

THE COMMISSIONER: Is it shown that we are concerned with these at all? Were these properties subsequently sold by the Custodian?

A In the exhibit yesterday it showed that 69 were withdrawn, and that list is the same 69. I don't want any donfusion about it.

THE COMMISSIONER: What exhibit are you referring to?

A It was filed yesterday. That is all I can tell you.

MR. McMASTER: Exhibit 35.

THE COMMISSIONER: Q: And you say that the document you now produce to Mr.McMaster is the same?

A It is itemized.

Q It is an itemized detail of the information given in Exhibit 35?

A Absolutely.

MR. McMASTER:Q:I think if you will compare the documents you will find it includes additional information to what was in Exhibit 35. Will you look at Exhibit 35?

THE COMMISSIONER: It is obvious. That is what Mr. Shears says. It gives the information in greater

detail but deals with the same parcels that are dealt with inExhibit 35.

MR. McMASTER: Q: It deals with certain parcels that are dealt with in 35 and additional parcels.

A No, it deals with the 69 parcels.

Q Now, I think the witness has forgotten that Exhibit 35 dealt only with three parcels.

A No, that is another exhibit.

THE COMMISSIONER: Well,that is not the document Mr. Shears referred to.

Q What is the document you referred to?

MR. BRAIDWOOD: 34, I think.

MR. VIRTUE: No, I think it is 36.

THE COMMISSIONER: It was Exhibit 34 that Mr. Shears referred to.

MR. McMASTER: Q: So that the information contained in what I am now filing as an exhibit is detailed information with respect to Exhibit 34?

A That is true.

Q Now, this exhibit will be exhibit what number?

THE COMMISSIONER: What is the next exhibit number?

THE SECRETARY: 37.

(DOCUMENT MARKED GENERAL EXHIBIT NO. 37)

MR. McMASTER: Q: 37 first shows 43 properties which were withdrawn from theSoldiers' Settlement transaction and were subsequently sold by the Custodian? A: That is true.

Q And then he proceeds to say certain other properties all relate to those 43?

A Yes.

Q And some of those properties were sold by the Custodian? A:Previously -- already sold by the Custodian or the Japanese.

Q Well,I see after the total 43, about two-thirds of the way down the page under "Properties Listed and Sold by", it has in brackets D.V.L.A. What does that mean?

A That was the property that was withdrawn and afterwards advertised and the D.V.L.A. became the purchaser.

THE COMMISSIONER: Speak up.

THE WITNESS: That was the property that was withdrawn from the original offer for certain reasons and afterwards advertised for sale , and in that particullar case, with the D.V.L.A. against it-- in that particular case, the D.V.L.A. made a tender and it was sold to them.

MR. McMASTER: Now,that is relating to three sales. I will give theCustodian's file number that appears on this-- 2857, 1856 and 10873.

A No.

Q I am sorry, it only refers to 2857.

A Yes.

Q That was sold to D.V.L.A.?

A Yes, that is what the document says.

Q And that was sold in September,1944, at 5.4% higher than the D.V.L.A. offer, according to this, is that true? A: Yes.

THE COMMISSIONER: That was the former D.V.L.A. offer, I take it?

MR. McMASTER: Yes.

Q And the parcels referred to in 10873 were sold by theCustodian at ~~a~~ private sale?

A Not by private sale-- by advertisement.

Q By advertisement and tender?

A Yes.

MR. HUNTER: Speak a little louder, please.

MR. McMASTER: Q: Now,1956 -- J. L. 46 -- the D.V.L.A offer,$459.00, and the Custodian subsequently sold it for $1250.00 in June of 1943. Is that correct? A: Yes.

Q And that, ~~as~~ according to these figures, is 79.3% higher than the D.V.L.A. offer, is that correct?

A That is correct.

Q And No. 10873 -- J. L. #477 -- the D.V.L.A. offer was $736.00 and that was sold at a subsequent sale by theCustodian for $1100.00.

A That is correct.

Q And that sale was in November,1944?

A Yes, according to the figures.

Q According to the figures here, that was 49.4% higher than the D.V.L.A. offer?

A Yes.

Q Now, 13542 is shown as being sold by the Official Administrator. Was he acting on the instructions of theCustodian in administering the estate?

A No. He was appointed by the Court.

Q He was appointed by the Court. And the Custodian, however, was vested with all the property that he was administering? A: Yes.

MR. HUNTER: That is a matter of law.

MR. McMASTER: Well, my lord, I think that is evident.

THE COMMISSIONER: Does not the document speak for itself without reading it allinto the record?

MR. McMASTER: The thing is, I want to make it clear who made these sales.

Q Now, there follows afterwards a number of sales as having been made by the Japanese owner.

A Yes.

Q And according to this exhibit, all those properties sold by the Japanese owner, with the exception of the last two appearing on your list, were sold in 1942. A: That is true.

Q And the Veterans' Land Act had appraised those lands at a total of -- twelve parcels at $10,846.00 -- or rather, they had offered $10,846.00? A: That is true.

Q And the Japanese owners in 1942 sold those for $17,250.00. A: That, I believe, is true.

Q And that is 59% higher than the offer of the Soldiers' Settlement Board?

A That is true.

THE COMMISSIONER: Sold what -- just the properties or the properties and crops?

MR. McMASTER: Q: Well, does the witness know whether the properties they sold/or whether they sold the properties with crops on them?

A I cannot answer without referring to the records.

Q Have you any records showing whether they did

or not? A: Not in every case. These sales had been made in many cases prior to theCustodian coming in. We were completing agreements under agreements of sale.

Q Did the Custodian make inquiries as to whether the crops were included?

A I cannot answer that without referring to the files.

THE COMMISSIONER: Mr. Shears, it is perhaps of some importance that I should hear what you say.

THE WITNESS: I am sorry.

MR. McMASTER: Now, the next sale, 11519, J.L. 239, shows it is sold by Nigushi, Is that a Japanese owner? A: Yes.

Q And that was sold by him -- you have two dates -- July, 1946 and March, 1947. Now, what date was it sold? A: I don't know. I would have to refer to the file.

Q Do you know why two dates are shown on here?

A No.

Q There was an offer from the Soldiers' Settlement of $1771.00 and Nigushi sold it for $12,200.00, or an increase of 88.5%. Is that correct?

A Well, I would not care to say without referring to the files.

Q IS this information not correct?

A This information is in regard to the properties, and in the $12,000.00 sale, there might be other things not incorporated in the first figure, and I could not say without referring to the files.

Q What are these figures? Where did you get them?

A We got them from our records.

Q Where did you get them for the purpose of your Record? A: I would not be able to say until I got the file.

Q It would vary from file to file?

A Yes.

Q I would ask you before this cross-examination is through to consult the files in these cases and be prepared to advise the Commissioner where you got this information.

THE COMMISSIONER: Would not it be more practical to bring the files there, so that you can answer cross-examination on this Exhibit 37?

MR. HUNTER: My lord, this is supposed to be general evidence and it may be in a particular case we shall be producing a lot of witnesses, and if we are going to start going into each individual case to give a fair picture of it, we shall have to find out whether they are crop sales and so on, and I don't know whether this is a suitable time or not to do it.

MR. McMASTER: It is obvious there won't be any claims in a respect to a number of these, because they are alleged to have been sold by the Japanese owner, and I think this is a matter that should be dealt with.

THE COMMISSIONER: As I understand the purpose of Mr. McMaster's cross-examination, it is to show in relation to these 76 properties the D.V.L. property was substantially lower than the sale

price subsequently obtained by the Custodian.

MR. HUNTER: I believe so.

THE COMMISSIONER: Why should we not now have the document here, so that Exhibit 37 can be explained, because I conclude from Mr. Shears' evidence previously given that thefigures shown in the document do not refledt the true picture -- that is, a comparison between the selling price and the D.V.L.A. offer is not a complete picture.

MR. HUNTER: That maybe so and the file may not show the true picture. This was prepared when all factors were checked. It was just for our own study that we were pprusing it, and in some of the sales in 1942 some of the figures seem very much higher and we were advised that they included crop sales. If we are going into this, it means I shall have to call a number of more witnesses. I am just presenting that fact.

THE COMMISSIONER: Well, it appears to me it maybe very important general evidence-- the difference between the D.V.L.A. offer and the price subsequently realized, so we ought to have the whole picture.

MR. HUNTER: Very well, if your lordship wishes that, but perhaps if I could speak on this question-- it does not seem that we are going to finish in three weeks and if we are going to call witnesses, which appears evident, and are going to adjourn the general evidence and go into it after the corporation evidence --

THE COMMISSIONER: I am in your hands.

MR. HUNTER: The reason why I mention that is Mr. McPherson is going to go into a new position on the 1st of November and I don't want to embarrass him here -- but if we are going into these cases, it will take some time.

THE COMMISSIONER: You would prefer to postpone the cross-examination of Mr. Shears on this particular document?

MR. HUNTER: I don't think Mr. Shears can give any further information, except what is in the file, and if he brings the file he can be cross-examined on that, but the files do not show the true picture of what was received or why.

THE COMMISSIONER: Well, perhaps it would be better to postpone the cross-examination on this until after the corporation matter is dealt with.

MR. MCMASTER: If my friend is prepared to call evidence on these things -- which I think should be called, it is much more useful than the file and the purchaser should give us the information and the documents be made available from the Land Registry Office, or if my learned friends will undertake to make a search in the Land Registry Office, I am not going to insist on him calling the Registrar.

THE COMMISSIONER: I am going to stand this phase of the cross-examination down and counsel can let me know later what they desire to be done with it. I take it you are not fully instructed, Mr.

Hunter, in regard to this situation?

MR. HUNTER: No, my lord. We had that information and we were prepared to go into it generally, but we are not prepared for this man to go into each individual case, and I understand your lordship might wish to have all the facts in these cases.

THE COMMISSIONER: We will stand it down and counsel can let me know in the next few days what they desire to be done with it.

MR. McMASTER: Q: Now, following on Exhibit 37, I referred yesterday to a specific case, Mr. Shears, which had been heard in Toronto, and I did not find it among the 43 cases. Now, can you advise the Commissioner if that is included in Exhibit No. 37? A: The answer to that will be if you look at No. 7 -- the minutes of proceedings of Public Accounts at page 164, where there is listed the total offer of the D.V.L.A. -- about two-thirds down the page, there is number 2879, sir.

THE COMMISSIONER: Yes?

A The appraisal of that property was $1785.00, and if it had beenincluded in the sale with that slight 2% deduction, $1753.00 would have been the amount. Now, you will see next to that there is a figure of $288.00, and at the top of the column is the word "Increased", which would appear in this particular case that the D.V.L.A. Had increased their offer to $288.00, but unfortunately that is not so. It is an error, and above the

$288.00 there should have been a minus sign. The story is this: That particular property consists of Lot 67 and 68 or whatever the legal description is, which is not material, and Lot 67 and 68 were included in the offer of $1753.00, but Lot 67 had an estate interest and was withdrawn from our sale to the D.V.L.A. That is, Lot 67 was withdrawn but Lot 68 continued in the picture, and theSoldiers' Settlement Board valuation for Lot 68, when it was reinstated, was $1465.00, and the D.V.L.A. paid us the $1465.00. Lot67, which was withdrawn, was later sold by the Official Administratorx on the 13th of May, 1945.

Q The 3rd of May? A: My notes say the 13th for --

Q That is the lot that had been valued by the Soldier Settlement at $238.00?

A Yes.

Q Now, I understand the reason for the withdrawal of that lot was because the wife owned Lot 68 and the husband owned Lot 67. It had been appraised as one unit?

A That is right.

Q And the husband had died and it was involved in an estate? A: That is true, yes.

Q And with respect to that, my lord --I don't want to deal with this as a special case at the present time or as a spedific case, but I think your lordship should be directed to the transcript evidence

in this case under 1018 that was heard in Toronto on May 7th, 1948, and I would particularly draw your lordship's attention to page 7 of the transcript of evidence -- page 7 and 8.

THE COMMISSIONER: Mr.Watson, could you get that transcript up for me from the records downstairs-- 1018?

MR. McMASTER: My lord, I have my transcript here now.

THE COMMISSIONER: But I take it you will want to refer to it, will you not?

MR. McMASTER: I don't think it will be necessary to read it into the record officially, but I would ask that the reference be specifically made in the record, however, and that it be taken as copied into the record at this point without the necessity ofactually typing it over again. Now, I might put one other question to the witness:

Q Can you understand how it is that the Soldiers' Settlement Board appraised Lot 67 at $288.00 and that when it was offered by public tender by the Official Administratof for sale in the spring of 1945, a tender was received for $1510.00?

A I have no explanation.

Q You cannot understand the discrepancy?

A I have no specific information.

Q And were you aware at the time of the consideration of the tenders with respect to that property, thatthe Soldiers' Settlement Board tendered it in 1945 -- in May of 1945, or the month previously -- the sum of $288.00 for this piece of land?

A Who made the offer?

A The Soldiers' Settlement made a tender on this property in May 1945.

A I am not aware of that at the moment.

Q I believe you were advised by the Official Administrator to that effect, but you had probably forgotten the fact.

MR. HUNGER: If my learned friend is going to make a statement like that, I assume he will be producing evidence of it later.

MR. M cMASTER: Well, the transcript is in, my lord. I t is in the transcript. The case has been heard, and it is in the transcript.

THE COMMISSIONER: I was just wondering, Mr. McMaster, whether going into so much detail, as you are disposed to do now, should not be reserved for a hearing of the particular claim later?

MR. McMASTER: Oh, very well, my lord. I do not intend to pursue that matter any further. This is one of the withdrawn cases, and in the same manner I dealt with withdrawn cases yesterday -- that I want to gather from Mr. Shears whether he has any reasonable explanation asto that discrepancy in t hese matters.

THE COMMISSIONER: Well you see, I do not want to be goingover the same ground twice. Once in general evidence amd again on the particular claim.

MR. McMASTER: No, my lord, I quite understand that and I don't intend to pursue that any further.

Q Now turning to the subject of nets, Mr. Shears: is

it not true that where the declaration of nets in the J.P. form was inadequate, as for instance, giving the one you gave yourself the other day -- where the man said he had five salmon nets in his J.P. form -- is it not true that the Custodian would then in six months to a year thereafter, write to the man and request a detailed inventory of his nets?

A Generally speaking that was done.

Q And is it not true generally speaking you have received that information from the claimants?

A Generally I would say yes.

Q Now at what date did the Custodian's office become aware that a large quantity of these nets were stored in cannery net houses?

A I would say they became aware of it in the early day sof evacuation -- March, April and May of 1942.

Q That is from the start?

A Yes.

Q Well, you were aware in May, 1942, when you wrote the letter to the Fisheries Institute that is filed as an exhibit?

A Yes.

Q I take it you were aware of it before May 1942?

A Yes, in March and April.

Q And your evidence the other day was that the evacuation began in March?

A Yes.

Q Now why did the Custodian not at that time obtain an inventory from the canneries of the nets that

had been left in their net houses?

A Simply on account of the manifold number of problems that --

MR. HUNTER: I am sorry, I don't think the witness was answering the question.

THE COMMISSIONER: I think he was -- yes, I think he was.

MR. McMASTER: Yes, I think he was.

MR. HUNTER: Well, I think he misunderstood the question. The answer to the question is that the canneries did not have --

THE COMMISSIONER: The question was why the Custodian did not tthe inventory.

THE WITNESS: What is the question again -- what is the question again.

MR. McMASTER: Q; The question is -- I will put the question in another way. Why didn't the Custodian take an inventory of the nets if he was aware they were in the canneries, immediately he became aware of it?

A There were two reasons. In the first place, in many cases the declaration stated they were left in the canneries; and they were left there presumably in the care of and custody of the canneries; and in the second place, as I was starting to say before, it would be a physical impossibility to do so in view of the tremendous amount of detailed work that was thrust upon an office that had only just been set up; and the question of taking inventories itself was difficult, and the taking of net inventories at that time was almost impossible.

Q Well, I realize you were confronted with an impossible task, but I would like to deal with the

first point, because my recollection of your evidence is that you consulted the Fisheries Institute in May 1942; within a week you were advised by the Fisheries Institute, as I take it from your evidence, on behalf of the fishing companies that they assumed no risk whatever. Is that right?

A That is right.

Q And the first answer you gave was not the real answer. It was because it was physically impossible having regard to your staff?

A No, that isn't true. The fact that the Japanese declared they were left in a certain place, that appeared to be secure, that was why we set that particular problem aside for the moment.

Q Even though you were advised by the party employed by the Japanese who were to look after them that they were not assuming any responsibility for them, you assumed you were not taking any risk?

A That was starting after May, yes.

Q Now I think you made the statement the other day that the valuations that were placed on these nets by the Japanese, on the tags that they attached to their nets, were very high ?

A That was the information which came to us.

Q Now do you know that to be the fact?

THE COMMISSIONER: Isn't this a matter that is going to be covered in the examination of a net expert who will know all the facts?

MR. McMASTER: Well, I will put it this way: Were the original tags of the Japanese necessarily on the

nets when Mr. L eckie appraised them?

A I am not able to give a complete answer on that.

Q Well, did he make the appraisal, the main appraisal?

A Stating I would say -- oh, the appraisal, -- I beg your pardon -- I would say in the month of May, 1942.

THE COMMISSIONER: Q; Of what year?

A Of May 1942.

MR. McMASTER: Q: Witness, I would just like you to consider that question again. When did he make the main appraisal of these nets? That is, when did he appraise the large bulk of the nets -- between what dates? A. Between May and August, 1942.

Q My understanding of your evidence the other day was one reason for the delay in the sale of these nets was that you had hot had appraisals made?

A One reason was what?

Q One reason for the delay in the sale of these nets by public sale, as distinct from the sales that went on through the canneries, was because you had not had appraisals made of the nets and you could not sell them by tender?

A Appraisals were made by Mr. Leckie all the way from June up to October, 1942.

Q And at the time those appraisals were made the Custodian had made no inventory?

A No, the Custodian had not made any inventory up until about August 1942.

THE COMMISSIONER: Mr. McMaster might not know as to the evidence in chief which was that Mr. Leckie made

appraisals in May to August 1942 and the sales made up to the 31st of August were at a price fixed by the Japanese regardless of appraisals -- and which the Japanese consented to, but at the end of August the policy was adopted selling at appraised prices without the consent of the Japanese.

MR. McMASTER: Well, we will go on and see when the nets were first advertised by public auction to be sold -- I am sorry -- advertised for public sale -- that was in February 1944, if I remember right.

THE COMMISSIONER: I have no note of that.

THE WITNESS: I have no recollection of the date of the advertisement.

MR. McMASTER: Very well.

THE COMMISSIONER: The exhibits relating to that phase of it were exhibits 23 and 24.

MR. McMASTER: I think that relates to certain parcels. I am referring now to two sales that were made by the Custodian.

THE COMMISSIONER: I have no notes on the feature that you refer to.

MR. McMASTER: Q: Now on what basis did you make the statement in your evidence in chief, that the Japanese prices were high?

A As I think I stated, the information came to us from various sources. I even stated or indicated that the sources might be somewhat prejudiced -- that is to say the cannery companies and people who wished to buy these nets, they said, " We cannot buy these nets because the prices are too high".

Q Did anyone ever make a check between the prices that were on these tags and the sale price?

THE COMMISSIONER: Now what does your question mean, Mr. M cMaster. You say did anyone ever make a check.

MR. M cMASTER: Well just let me put it this way, my lord.

Q Did anyone ever prepare an inventory or a statement showing the nets sold and the prices at which they were sold, and also showing the valuation which the Japanese had placed on his tag?

A No.

Q Now did Mr. Leckie appraise all of the nets that the Custodian had appraised?

A No, we sometimes called in the aid of a cannery net man when the particular cannery was not interested in the purchase of the nets themselves.

Q Now who were the net men that you called in?

A I cannot give you their names without referring to the records.

Q And how many nets did they actually appraise?

A I cannot give you the number, but it would not be very considerable.

Q It would be actually very few, I put it to you now?

A I would not care to say that.

Q That is, in relation to the whole?

A Yes, it would be only a small proportion compared to the whole.

Q Now was anything done about the suggestion that was made by the Fisheries Institute of British Columbia -- well no, before I come to that: Mr. Leckie you say did the larger proportion of the appraisals.

THE COMMISSIONER: We have had that already.

THE WITNESS: Yes.

MR. McAMASTER: Q; Did anyone assist him?

A I am not personally in a position to say.

Q You don't know?

A No.

Q Do you know whether anything was done about the suggestion of the Fisheries Institute of British Columbia, that you get an expert net man and a net supplier to appraise the nets together?

A That wasn't done.

Q It wasn't? A. No.

Q Now I put it to you, witness, that expert net men were extremely hard to get in 1942?

A I believe that would be true.

Q Most of them were engaged in the fishing business?

A That is true.

Q And the fishing business was very busy in 1942?

A That is true.

Q And you mentioned in your evidence that you required a very large storage space to store the nets that came into your hands by reason of the recent Order-in-Council, and that you authorized the canneries to make sales on Custodian's behalf -- in the first instance if they could get the consent of the owner to the sale, is that right?

A In the first instance the cannery companies were making sales of nets which had been left with them if they got the Japanese price. We did inform them if they could not get the Japanese price they

had to refer it to us.

Q That is, they could sell them if they could get the price appearing on the tag?

A If they got the price appearing on the tag we had no interest in it.

Q It did not need your approval?

THE COMMISSIONER: Must we go all over this again?

MR. McMASTER:Q:Now Exhibit 23 was a letter you either wrote to the Fisheries Institute of British Columbia, or to the canneries, and it was suggested that the nets that were in Vancouver might be distributed among the canneries. Now you did not indicate whether you got any reply from the cannery companies to that suggestion?

A That was nets that was in various houses in Vancouver?

Q Yes? A. I cannot give you an answer in regard to what was actual done in regard to that.

Q You don't know what was done with those nets that were not in a cannery net house?

A No. I cannot be specific without looking at the files. They were many times taken from the houses, but some of them were taken to the Takahashi net house.

Q W ell I take it this was before the establishment of the Takahashi net house?

A Yes.

Q And you don't recall when it was done?

A No, not immediately.

Q Now may I have Exhibit No. 24. Now Exhibit 24, witness, were a number of letters from several of the cannery companies setting forth the sale of nets by them on your behalf?

A Not on my behalf.

Q Not on your behalf? A. No.

Q Your suggestion is that it was on behalf of the individual owners, is that right?

A Yes.

Q And what is that based on ?

A On the fact of the arrangements that the Japanese had with these cannery companies. They left a price tag on the nets and the companies sold them at those prices and merely remitted the money to us.

Q Now that is the only thing that you are basing that statement on, is it?

A Yes.

Q Now I will put it to you that that is a question of law?

MR. HUNTER: No, it is your statement.

MR. McMASTER: No, I want to know whether he has any other facts, besides those facts, for the statement that he makes.

THE COMMISSIONER: Well what it comes down to is, that we are wasting a lot of time on this issue -- what it comes down to is this: the Japanese gave a certain authority to sell at a certain price and put the price on the tag and the witness says no sales were made in August 1942 unless it was at the price fixed by the Japanese. Now what are you disturbed about -- whether the Custodian authorized the sale or not?

MR. McMASTER: I see your point, my lord, and there is no reason for complaint there.

Q Now witness, do you have any idea as to how many nets were sold by the canneries or whoever they were sold by -- by the canneries -- of the nature or the circumstances of those nets that were sold under Exhibit No. 24 -- in other words whether the canneries sold them at the prices that were on the tags?

A Does it not show in the exhibit? I think it was around $40,000.

THE COMMISSIONER: The witness said $48,000.

MR. McMASTER: Q ; Now my notes are not any too clear on that. That figure represents sales at the cannery by the Japanese .

THE COMMISSIONER: The evidence in chief was that the direct purchase was made by the cannery company -- to the Japanese fishermen at an aggregate of $48,000 and all those sales were made at prices approved by the Japanese.

MR. McMASTER: Q:And those sales would be made in the spring of 1942? A. Prior to August, I think it was.

Q Prior to August? A. Yes.

Q Do you know how many nets were involved in those sales? A. No, I could not give you that information.

Q Do you know the average price?

A No, I would not care to give you the average. I will say the prices varied very consi derably. They were small amounts and the nets would run up to $200. or $300. anyway.

Q Now you gave evidence the other day to the effect

that you finally made an inventory of the nets that remained. Can you tell us how many nets the Custodian actually inventoried?

A Approximately 3700.

Q 3700 nets? A. Yes.

Q Does that include lines, or just nets?

A No, that would be nets that were attached to lines.

Q 3700? A. Yes.

Q That is how many you inventoried?

A Yes.

Q Now how many did you actually take intoyour own storage net houses?

A I could not give the figure at the moment, as I think I indicated the Takahashi net house would not hold all the nets we had and they were moved from time to time. As nets were sold at the Takahashi net house other nets were moved into our storage space.

Q I don't think you made it clear in your evidence: Was there any other net house rented by the Custodian except the Takahashi net house?

A I don't recall that there was.

Q That was the only one?

A That is the only one.

Q As I recall it,-- and Takahashi's own case, there was some evidence about this -- perhaps you can tell us -- did the Custodian only rent half of the Takahashi net house?

A We only rented a portion of it.

Q Do you know how big that portion was?

A No, I couldn't say without looking at the record.

Q Now my notes say that you indicated yesterday that Mr. Robinson was not an expert, is that correct?

A That would be true .

Q And my notes of your evidence the other day indicate that the inventorying of nets was a difficult job?

A I consider it so, yes.

Q Now Mr. Robinson undertook the inventorying of nets, did he? A. Yes, with help.

Q Now how many helpers did he have?

THE COMMISSIONER: What assistance is all this to me, Mr. McMaster?

MR. McMASTER: Well, I would like to get a picture, my lord, of what the Custodian did in the way of dealing with these nets.

THE COMMISSIONER: What are you suggesting? Are you suggesting that he was dilatory in inventorying them or what?

MR. McMASTER: Well, the evidence on that is that it took several months for him to do it; and we are up against the problem of claimants saying that they had nets when theyleft there and the nets have now disappeared. I want to see whether the claimant is correct in that, and whether for some reason they should have disappeared.

THE COMMISSIONER: The number of men employed to make an inventory does not seem very helpful to me.

MR. HUNTER: Well, I think the type of inventory that Robinson made -- he was not a qualified net man -- he was just taking the number.

THE WITNESS: He waslisting it from the tags.

MR. McMASTER: You filed a memorandum instructing Mr. Robinson to do certain things -- that is Exhibit No. 5?

A To take an inventory, but you can take an inventory without knowing anything about the article you are inventorying.

THE COMMISSIONER: You are saying all he did now was to make a list of the nets?

A Definitely.

MR. McMASTER: I will leave it at that.

THE COMMISSIONER: It might assist you Mr. McMaster, if I tell you now it is my view that the Japanese did suffer some injury in consequence of the delay in carying for these nets; and that the delay is capable of explanation by reason of the tremendous task that the Custodian had in his hands. The government no doubt will be faced with the responsibility for the losses that were sustained in consequence of that delay. If I understand Mr. Hunter's attitude all the way throughout the hearing of the earlier claims, he is not inclined to negative that proposition.

MR. HUNTER: Not if they were lost of stolen, my lord. I do submit deterioration is not in the reference -- it is a fair market value at the date of sale.

THE COMMISSIONER: Well, that would be a matter of argument. We are dealing with such a vast number of nets and other articles, that from my point of view, it is not going to be possible to consider them, except in a broad way.

MR. McMASTER: Well, I shall just put one more question on the question of nets, my lord.

Q Witness, are you able to state how many nets that came under your control that can be with absolute certainty identified -- A. No, I cannot.

Q -- in relation to the owners?

A No, I cannot.

Q And from your knowledge of the records at the office of the Custodian, would it be possible to ascertain it?

A Would you mind saying the specific thing you would like information obtained on.

Q The exact number of nets that can be specifically identified with the owner, in view of the thefts and the mixing of tags and all the other things that went on? A. No, it would not be possible. We can give you a list of those nets that were credited to owners, that were there.

Q You are just working on an assumption?

A In those cases where there was a switching of tags, as I told you yesterday -- we cannot give you any information -- not that I think that that switching of tags was continued for any length of time.

Q But there were thefts also?

A Therewere thefts as well.

Q And it was an extremely difficult problem, and extremely difficult to deal with, and as a result of what happened it is almost impossible to determine whose net belonged to who when it got around to a sale -- which net belonged to who when it got around to a sale. Is that a fair statement? A. In many cases -- I don't want you to infer there was no identification of ownership, but in view of thefts and the changing of

tags there was a certain difficulty -- it was quite difficult and it made it impossible to be sure of actual identification.

Q Now turning to the subject of automobiles --

THE COMMISSIONER: Well now, perhaps this is an appropriate time to adjourn and we will resume at two o'clock today. Is that satisfactory to counsel?

MR. HUNTER: Yes, my lord.

(PROCEEDINGS ADJOURNED UNTIL 2. P.M.)

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

Deputy Official Stenographer

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

FRANK GOULD SHEARS, resumed stand and testified further as follows:

CROSS-EXAMINATION CONTINUED BY MR.McMASTER:

MR. McMASTER: My lord, in the examination of the witness this morning with regard to appraisals on nets, there were certain questions asked. I would like to have that letter produced and filed.

THE COMMISSIONER: Q: What is this, Mr. Shears?

A That is the data from which Mr. Leckie made the appraisals, the dates and times.

(DOCUMENT REFERRED TO MARKED GENERAL EXHIBIT NO.38)

Q Dealing with the question of automobiles and trucks, in your evidence, Mr. Shears, you stated that certain automobiles and trucks were sold toGovernment agencies. Is my understanding correct that no tender was asked for from those Government Departments and agencies?

A No tender was asked for.

Q They simply paid the appraised value?

A They paid the appraised price.

Q Now, you filed, as I recall, an exhibit yesterday two advertisements with regard to the sale of trucks, one approximately on July 25th and the other was in October.

A I think in October.

Q Or calling for offers in October. Those were the only two advertisements which you published with regard to the sale of the aumotibles and trucks.

A I would not care to be positive.

MR. McMASTER: I wonder, my lord, if the witness might be directed to ascertain whether that is so?

THE COMMISSIONER: Yes, I think that information should be furnished, Mr. Shears. Perhaps you can arrange to get it and give it to us this afternoon.

A Yes, I will.

MR. McMASTER: Q: Now, Mr. Shears, with respect to the two advertisements which were filed -- in any event you gave us the date of the publication of those exhibits, or in the case of the first advertisement you gave us the date of publication and the papers in which they were published?

A Yes.

Q How many times did the first advertisement which was filed as an exhibit appear? How many days was it published in each of those papers?

A It was just published the once in each of the eleven.

Q In each of the papers?

A Yes.

Q Is that true of the second advertisement that you filed as an exhibit?

A Yes, that is true.

THE COMMISSIONER: Just before you leave this question of vehicles to Government Departments, have you any record of the number of vehicles sold; and the classification of them?

A Yes, I believe that is in as an exhibit, or it is in the transcript.

MR. McMASTER: Q: You gave the number of vehicles sold to the various departments, but you did not ggive any indication as to the type of vehicle or any description of it. Is that information available? A: It is available, but I cannot give it now.

THE COMMISSIONER: I think there should be a list prepared showing a description of the vehicle and also the Japanese owner.

THE WITNESS: Yes, sir.

MR. HUNTER: When you say a description, you mean the make and model?

THE COMMISSIONER: Yes.

MR. HUNTER: Excuse me -- do you want it subsequent to the first advertisement? Do you want the actual dates when they were sold, or during that period?

THE COMMISSIONER: I would say between certain dates. The specific date is not important. We want to get an approximation.

MR. McMASTER: Q: If I understand the witnessés evidence, it was that those were sold first before anything was offered to the public?

THE COMMISSIONER: I think that is so.

A That is so.

MR. McMASTER: Q: Well, that is all we refer to.

THE COMMISSIONER: Yes, I am only referring to those sold to Government departments.

MR. McMASTER: Q: In yourrevidence, Mr. Shears, you referred to a meeting you held with certain

used car dealers in Vancouver, and if my note is correct that meeting was held in June, 1942.

A Yes.

Q And you stated in your evidence that you were advised at that meeting that the market in second-hand cars was slow?

A Yes, sir.

Q Now, having regard to that advice, did you consider the possibility of selling those cars in small lots instead of offering the whole 800 odd all at once to the public?

A I cannot give any answer to that, because I was in charge at the time and I was not the one who made the deal in regard to the cars.

Q You are not speaking from your personal knowledge, but from the record?

A I am speaking from record, not from personal knowledge.

Q But you do not know if consideration was given to that? A: No, I do not know.

Q And as I took it from your evidence, there were no salesmen employed with regard to the sale of those cars? A: No.

Q It was purely a matter that the cars were sitting in Hastings Park and the buyer could go and look at them there, if he wished so to do. The main body of the cars were sitting in Hastings Park? A: At the time of the advertisement, they had been moved to these other locations.

Q At the time of the first advertisement?

A Yes.

Q Well now, my recollection of your evidence was that they were not moving until the racing season, which I think was late in July.

A The advertisement was on the 25th July and in the advertisement it referred them to go to certain specific locations, so it is very definite it must have been before the 25th of July.

Q In any event, the procedure was you went to any one of those places or number of them, if you wanted any of these cars? And there was no salesman there to puff the merits of the cars in any way whatsoever. They were just there for inspection. Actually there were how many places did you say where these things were situated?

A Nine; that is, in Vancouver; and other places.

Q Was the prospective purchaser given any opportunity to drive the car around the block or test it in any way? A: I could not say.

Q Now, when you moved the cars from Hastings Park to the nine places in the city of Vancouver, was there any particular grouping of the cars; that is, we will take one, say, at 1015 Seymour, or whatever the address is,-- take any one place -- was there a certain type of car at that place and a certain type at another place, or what was called a grouping of cars in the various places where you had them for inspection?

A There were different makes of cars at each of the

locations.

Q And different year models?

A And different what?

Q Different year models? A Yes, 1939, '36, '35, '32.

THE COMMISSINER: Q: I understand that the classification was in the make, not the year models.

A In both; classification in make and year models.

MR. McMASTER: I took the witness's answer to be you might have any kind of car at any one place.

THE COMMISSIONER: I did not understand that. Will you clarify your answer, please?

A I would like to refer to the catalogue, because that is the only information I have and I would like todo that.

THE COMMISSIONER: Q: Yes.

A As an indication, at one particular place there were Chandlers and Chryslers and Chevrolets, and from the list it would appear that they were different makes of cars and different models and years numbers at each of those places. Would you care to have that?

Q Does that mean this, that you sent to one dealer the types of cars that he normally handled, or how was the classification divided?

A I could not answer, to my knowledge. The tenderer, of course, would have this catalogue and if he was interested in a particular type of car, he would know where to go.

Q But what we are referring to is how did you

select Tom Jones to be the handler of certain types of cars. Ifyou don't know, say so.

A I don't know, sir.

THE COMMISSIONER: I think you had better get that information, then, and give us the information later.

MR. McMASTER: It will probably appear in the catalogue, my lord.

Q Now, with respect to my lord's last question, I take it you did not make any arrangement with the dealer who owned this lot in which the cars were located that he should do anything about selling the cars? Is that a correct statement?

A That is a correct statement.

Q All he did was to let you use his space?

A He rented space to us.

Q And he had nothing to do with the sales of the cars? A: Not specifically, no.

Q Now, Mr. Shears, can you give us any information as to what percentage of those cars was sold to persons or companies which are obviously,on the face of them, dealers in used cars?

A No, I am not able to answer.

Q I suppose it would be very difficult to get that information from your files?

A I believe it would be. I would need to go to the individual files.

Q Mr. Shears, would you agree that of the tenders which you did receive, that there was a fairly

large proportion of them that were quite low in relation to the appraisal?

A I am sorry, I am not able to give the answer.

Q You don't know? A: No, I don't know.

Q You saw the tenders.

A No, no, I don't know the analysis of the tenders.

Q Now, you received advice from those second-hand dealers in June of 1942. Can you tell me if the Custodian or anybody acting on his behalf sought any advice from them at any further date or any other date? A: I can give no specific information.

Q As far as you are aware, did he do so?

A As far as I am aware, no.

Q And you have not observed any record at the office of his so doing?

A Not that I can recall.

Q Now, at the time that some of those cars were sold, or at any time, did you ascertain whether there was a ceiling price, or if there was, what that ceiling price would be on the cars that were being sold?

THE COMMISSIONER: Do you propose to call any of the appraisers?

MR. HUNTER: Yes, my lord.

THE COMMISSIONER: Is that not a question that might be better put to the appraisers? who would have some concrete knowledge of the subject? Mr. Shears does not pretend to be a used car expert.

MR. McMASTER: Q: Witness, do you suggest that when

the Custodian's office adopted the policy of knocking off 15 or 20% from appraisals, that that information did not become widely known amongst dealers in the city of Vancouver?

A I have no knowledge as to whether it did become widely known. As I indicated in my evidence yesterday, we had a very definite policy as far as the office was concerned to see that it did not become generally known.

Q But once you made half a dozen sales on that basis, the possibilities of it may well have leaked out. A: I don't know, because all the individuals who made an offer -- the offer was not accepted when he was in the office. He left his offer and was notified if his offer would be accepted. He would have no means of knowing on what basis the Custodian was working. This was an internal arrangement that cars could be sold within that margin of 15 or 20%, if the offer could be obtained.

Q You agree that once they set the appraisal and told the appraisal to somebody, that would set the selling price as far as any person would tender? A: As far as that particular individual is concerned, he would know, of course.

Q And you would not expect him to tender more than that? A: No.

Q What instructions did you give to those two appraisers that you have referred to -- you were

not there. Do you know what instructions were given? A: No, I am not in a position to give what instructions were given.

Q I would like to deal with the question of the costs charged against those cars, Mr. Shears. How did you arrive at the cost you charged against an individual automobile?

A There were three types of charges. There were storage charges; that is, for the rental of space. There were watchman's charges and there were insurance charges. I think I can put it clearly the way in which it was done. They would roughly figure the watchmen and storage charges; in our accounting department, as the cars were sold, prepare a list and one car had been in storage three months, another four monts, we will say. I am not suggesting those are the times, but one car had been in three months, four months, five months and six. That adds up to 20. We will assume that the charges in that period is $1,000.00. We divide that 20 into the $1,000.00 and we have a unit. Then we go back and we say, this person's car was in three months, which is three times the unit. This other was in six months, which is six times the unit. That was as far as the watchmen and storage were concerned. Then as far as the insurance, it was somewhat similar. $100.00 for one month was taken as a unit. Therefore, if a car was valued at $500.00 and had been in storage for one month, it would

be equivalent to five units. If the car was worth $500.00 and had been in two months, it would be the equivalent of ten units.

Q Yes, I think we have had enough to see the technique. A: The fairness of the distribution of all the x charges, according to length of time.

Q But these charges for storage and watchmen and insurance actually did not relate to the custody and preservation of the automobile?

A They were the charges which occurred during the time in which they were under the care and custody of the Custodian.

Q I put it to you those charges did not relate actually to the sale -- to the cost of selling those motor vehicles.

THE COMMISSIONER: They do not appear to have anything to do with the cost of selling. It is an administrative cost.

THE WITNESS: In my evidence yesterday, I advised you that we got our specific instructions from Ottawa.

MR. McMASTER: Q: Now, these charges that you speak of were charged against the individual Japanese?

A Yes.

Q And even in cases where the charges exceeded the sale price, you debited the man's account with the excess. Is that correct?

A No, that is not correct. If all charges were in excess of the sales price, which they were in some cases, the Japanese owner did not receive

anything but he was not charged anything.

Q You are not suggesting that is true in every case?

A I think it was.

MR. McMASTER: I think your lordship will find there were some cases your lordship heard --

THE COMMISSIONER: I do not recall it. I take it what Mr. Shears is telling us is what the office policy was.

MR. McMASTER: Yes, my lord.

THE COMMISSIONER: And he believes it was applied throughout.

Q Now, just on that point, Mr. Shears, the Custodian did not make similar administrative charges with respect to other types of Japanese property, did it? A: Only to that certain percentage in regard to chattels, the movement to auctions which I estimated at 6 or 7%.

Q Where you rented the storage for chattels, you would not charge?

A No.

Q A different policy was adopted with regard to motor cars? A: Yes, there was on specific instructions from Ottawa.

MR. McMASTER: Your lordship, I would like to deal with the fishing vessels.

Q As I took your evidence the other day with regard to fishing vessels, Mr. Gould was employed as an appraiser, but he was employed as an administrator to look after these vessels.

A He did some work of administration, yes.

Q There would be some boats with respect to which you would have difficulty over title?

A Over what?

THE COMMISSIONER: Over title.

MR. McMASTER: Q: In the same way you suffered difficulty in regard to lands.

A I don't remember any particular boats we handled. It may have been so.

Q You don't know whether there were some boats which the Japanese Vessels DisposalCommittee were unable to sell, because they had difficulty in making title? A: Yes, there were boats which the Japanese Vessels Disposal Committee had disposed ofand they had not conveyed title.

Q No, I am not referring to that, I am referring to the title of the Japanese, where it was not clear whether those boats belonged to the Japanese or whether somebody else had an interest in it -- those sort of troubles; those vessels, the Japanese vessels had difficulties of that nature.

THE COMMISSIONER: We know enough to know that Mr. Shears had nothing to do with t he Disposal Committee, and my understanding is Mr. Gould will be called.

MR. McMASTER: Q: You stated very broadly yesterday, Mr. Shears, that the boats were sinking and that you had employed a large number of people to keep them afloat while down in Coal Harbour.

MR. HUNTER: Excuse me, I don't think he said a large

number of people.

THE COMMISSIONER: There was evidence of that general character. What question do you want to put in regard to it?

MR. McMASTER: Well, as long as it is evidence of that generaly character --

Q What I would like to know is whether that was the situation when the boats were out in the Fraser River when you first took them over on August 1st,1942. Were those boats sinking out there or was it necessary to employ people to pump them? A: I have no direct knowledge as to what they were like when taken over from the fishing vessels Disposal Committee.

Q And Mr.Gould will be able to give us that?

A Mr.Gould will be able to give you the information.

Q And he would be able to give us the information as to how these boats were brought around to Coal Harbour? A: He could. They were towed by certain towing companies to Coal Harbour.

Q And the boats were sold"as is", is that correct?

A The boats were sold "as is", yes.

Q And do you know --

MR. HUNTER: That is misleading.

THE COMMISSIONER: What is meant by "as is"? I understand the term to be in the condition in which they were found. In other words, caveat emptor.

MR. McMASTER: Q: Without any warranty whatever?

A Yes, they were sold without any warranty as to condition.

MR. HUNTER: I am not sure whether he means in the condition they were taken over.

MR. McMASTER: I am sorry. I am probably using the phrase which usually applies to vessels in that way. In any event, the matter has been cleared up.

Q You mentioned under P.C. 3737 there was a provision for certain compesnation for damages to the boats while they were in the possession of the Government and for the re-equipping of the boats. In the case of boats that the Custodian took over on August 1st, 1942, and their subsequent sale, did the owner or any person receive compensation for that damage? A. I believe I would have to look up the record for an answer to that particular question.

Q Generally, can't you answer? Did anybody receive compensation? A. For those specific boats? That is my point. Certainly people received consideration, but I don't know whether it was for those 181 boats which we received.

THE COMMISSIONER: You had better get instructions on that. Do not attempt to answer the question until you have the information.

MR. McMASTER: I would like to have that information, if I could, in two parts, my lord; one, with respect to boats which were the Custodian's, when he came into possession of the boat physically on August 1st, 1942, and subsequently stowed, and with

respect to boats which the Japanese Fishing Vessels DisposalCommittee had parted possession with and theCustodian subsequently completed the title.

THE COMMISSIONER: Is that clear to you, Mr. Shears?

THE WITNESS: Yes.

THE COMMISSIONER: Can that information be obtained and you answer the question this afternoon?

MR. HUNTER: Any compensation to be payable is surely a question of accounting by the Custodian and does not affect the question of whether the vessel was sold at its fair market value --

THE COMMISSIONER: It might become so under the terms of the Custodian's responsibility in connection with vessels, the sale of which had been negotiated by the Disposal Committee, but the actual transaction was carried out by the Custodian. You still have to face that.

MR. McMASTER: There is one question which directly affects it, if the Custodian followed what appears to be the practice of the Japanese Fishing Vessels Disposal Committee -- the purchaser actually got something added to it after he bought it.

THE COMMISSIONER: Your point being that if the Japanese owner received only the price of the boat"as is", in a damaged condition, he did not get the fair market value in terms of a boat in sound condition?

MR. McMASTER: Yes, in terms of the boat that the

purchaser actually got, because the purchaser got his fixed up boat and at the expense of the Japanese.

THE COMMISSIONER: You remember that point was raised previously?

MR. HUNTER: Yes, and thepoint I make is that your lordship has directed Mr.Shears to go through 181 boats to find in one or two cases something that occurred. I think it is a difficult task to ask him to do,and I think it would be preferable if Mr. McMaster gave more specific cases and more specific information.

THE COMMISSIONER: There is a difficulty, Mr. McMaster.

MR. McMASTER: I can get it from the witness. He will have difficulty. I don't want toimpose --

THE WITNESS: It would be the only way I could discover it, by going through the boats that were sold.

MR.McMASTER Q: Do you have anindex of this?

MR. HUNTER: There is a separate file for each boat.

MR. McMASTER: Are they readily available? in an index where you could say"here are the boats he sold" and get the file, or is it a case of going through a lot of material?

THE COMMISSIONER: I think you are putting a pretty onerous burden upon the Custodian's office.

MR. McMASTER: The difficulty is that the Custodian or the witness cannot answer the question as to what policy the Custodian followed in that respect. Probably if he consulted with some of them he could refresh his memory.

THE COMMISSIONER: That may be the solution. All I am concerned in presently is what policy was adopted.

THE WITNESS: I know the point and I appreciate it, but why I am not prepared to answer at the present moment is, I am not sure. There were sometimes when the owner of the boat made assignment of his claim to the purchaser and there were other cases where he did not make an assignment, and the Japanese claim got paid.

THE COMMISSIONER: Rather than guess about it, I am going to suggest this matter be laid over until tomorrow, and in the meantime if you can ascertain what policy was adopted, you can tell us in a little more detail.

MR. McMASTER: From the witness's comment I take it he is not quite clear on what we want. I take it he is referring to sales that the Japanese made themselves.

A No, I am not.

MR. McMASTER: That information is only with respect to sales where the Custodian had altogether specific possession, or alternatively the fishing vessels Disposal Committee had parted with possession and the Custodian supplied the Bill of sale.

THE WITNESS: The only way I can supply the information is going through the individual files. There is no doubt about that.

MR. HUNTER: I think the policy is pretty obvious; the

only fair thing to do would be to make an adjustment one way or the other, depending on the type of sale.

THE COMMISSIONER: You will have an opportunity to consult with Mr. Shears on this question. I do not know what the answer to it is and it does not seem reasonable to me that Mr. Shears should be called upon to go through 180 files to answer this question.

MR. McMASTER: My feeling is he need not look through 180 files, but if he went through a certain number he should be able to say probably what the policy was.

THE COMMISSIONER: We will leave that, Mr. Shears, leave it until the morning.

MR. McMASTER: If Government counsel finds it will necessitate as much work as that, if he will speak to me I won't press the matter. I don't want to unduly burden them.

Q Witness, what instructions were given to Mr. Gould with respect to appraisals?

A I didn't give the instructions to Mr.Gould.

THE COMMISSIONER: Then, if you did not not we will hold that over to be answered by Mr.Gould himself.

MR. McMASTER: Q: Did Mr.Gould advise you that he had appraised the hulls at pre-war prices? I suggest that advice was given to you in or about December, 1942, when he gave you a list of appraisals.

A That he suggested --

THE COMMISSIONER: There again, is that not a matter for

cross-examination of Gould?

MR. McMASTER: I would ask my learned friend to produce the document.

MR. HUNTER: What document?

MR. McMASTER: It is a document of which I have a memorandum in the file now -- I will speak to my learned friend afterwards.

MR. HUNTER: Unless my learned friend can show me a true copy, identified by Mr. Gould, I cannot answer it.

THE COMMISSIONER: Perhaps counsel can get together on this.

MR. McMASTER: Q: With regard to the advertising of the boat, you filed an advertisement yesterday as an exhibit. I think it was published on February 17th, 1943, and covered nets and boats. Was there any other advertisement with regard to the sale of those boats?

THE COMMISSIONER: By the Custodian?

MR. McMASTER: Q: By the Custodian, yes.

A I think I will have to make inquiries.

Q The advertisement that you did file, how many times was that published?

A Just the once.

Q And I don't think you told us in what papers that was published,

A Have you the exhibit -- I don't think it matters -- I have not the information here, so whatever the exhibit is --

MR. McMASTER: I would ask that the witness check whether

there was any other advertisement and what papers that was published in and how many times it was published; how many days.

THE COMMISSIONER: The advertisement, as I noted it, was in the local press the 17th February, 1943.

MR. McMASTER: In the Vancouver press.

THE COMMISSIONER: That is what I understood.

MR. VIRTUE: I wrote down also other advertisements.

THE COMMISSIONER: Q: At this time, those vessels were all centered on the Fraser River, or Coal Harbour? A: With the exception of those in Prince Rupert. The advertisement directed the public to come to the Custodian's office and there they got directions to go further. If I may say so, although I did not give specific instructions to Mr. Gould as to how he was to appraise, I won't say I did not have conversations with Mr. Gould. I did, at the time he was appraising.

MR. McMASTER:

Q I think his lordship's suggestion should be followed that I ask Mr. Gould. Witness, Why was it that the Custodian took over those vessels on August 1st, 1942, when they were in the condition which you have given evidence that they were -- why was it there was not any attempt to sell them prior to February 17th or in February, whatever date it was in 1943? Or was there an attempt to sell? A: The sale of the boats started immediately they were brought over to Coal Harbour.

Q Were they advertised to the public?

A I am not going to make the statement that involves the question of the advertisements, but definitely those boats were brought over for the purpose of sale.

Q We can examine on that subject when Mr. Shears supplies the information. Now, with regard to the boats, how did you apportion the costs? First of all, what costs would you charge with regard to the boats? A: In a somewhat similar manner to the cars; there were watchmen's expenses and the wharfage.

Q And do you recall how much Mr. Gould was paid for his appraisal services only?

A I don't recollect it at the moment.

Q Was it on a per boat basis or a value basis?

A On a per boat basis.

Q You don't recall the amount?

A I don't recall the amount.

THE COMMISSIONER:

Q Dealing with the administration charges, there were charges for wharfage?

A Yes.

Q Insurance? A: And insurance and watchmen.

Q Watchman? A: Yes.

MR. HUNTER: Appraisal charges?

THE CHAIRMAN: Q: The appraisal charges were charged to the owner too, were they?

A I am not sure, sir. I think so.

MR. McMASTER: Q: Those charges were all charged

to the individual Japanese?

A Yes.

Q And in some cases they amounted to quite substantial charges. For instance, I have a case here in front of me where $439.00 was charged. Were there other indications --

THE COMMISSIONER: Is not a statement of that kind dangerous, without stating the nature of the charges?

MR. HUNTER: Every boat was taken out of the water.

Mr. McMASTER: That would be part of the maintenance charge, I presume.

MR. HUNTER: Yes, the labour would depend-- there were watchmen.

MR. McMASTER: In pro rating those charges amongst the boats, did you make any distinction as to whether the boat was capable of staying afloat by itself or had to be consistently pumped to stay afloat? A: I would not care to say without checking up with our accounting department.

MR. McMASTER: I take it, my lord, that it would be useless to continue my examination on this subject until the witness provides me with the information.

THE COMMISSIONER: Mr. Gould would be the man to get most of this information from, it seems to me, but if Mr. Shears can answer any of the questions now, he knows what they are.

MR. McMASTER: Q: Mr. Gould made certain appraisals. Was he responsible-- I would like to know was he

responsible for figuring out those various charges and the apportioning of them, or was it the Custodian's office?

THE COMMISSIONER: What is the answer?

A It was the Custodian's office.

THE COMMISSIONER: The cross-examination points to the desirability of counsel indicating in advance the nature of the material they wish to speak to. If that information could be given in advance, it would be very helpful.

MR. McMASTER: We are against the same problem as we were when travelling around the country, the problem of night work.

THE COMMISSIONER: I appreciate your difficulty.

MR. McMASTER: I will endeavour to do the best I can in that respect. I realize it causes delay and a mix-up of the transcript.

THE COMMISSIONER: There is nothing further you want of Mr. Shears at the moment on that phase?

MR. McMASTER: No, I think that covers it, my lord. I wonder before I begin on the next phase if we might have the usual break.

(PROCEEDINGS RESUMED AFTER SHORT RECESS)

MR. McMASTER: My lord, I would like to deal next with what I describe as the general organization in the urban properties and rural properties other than the D.V.L.A. transactions.

THE COMMISSIONER: Yes.

MR. McMASTER: It is a little difficult to segregate this part of the cross-examination from that

which will relate to chattels, but I will try and keep it in as orderly fashion as I can .

THE COMMISSIONER: Very well.

MR. McMASTER: Q: Mr. Shears, have you any information as to how loarge the staff of the Custodian was at the outbreak of the Japanese war?

A There was no staff at all at the outbreak of the war.

Q And at the time you joined the staff, that was on what date? A:That was the 1st of April, 1942.

Q How big would it be then?

A I think approximately 25.

Q And at that time it was hard to get experienced personnel? A:We have not found it so much difficult to get employees, but it was not easy to get the most experienced at that time.

Q That is, to obtain people that could take administrative responsibilities.

A It was difficult.

Q And the Security Commission-- the B. C. Security Commission- also had a very difficult task to perform? A: I consider their task was very difficult, yes.

Q And they did not have too large a staff to perform that task with at that time?

A I could not answer that specifically. I don't know.

Q And often it was so that you would not receive

advice from the Security Commission that people were moving until they had actually been moved by the Security Commission?

A That was so in a number of cases.

Q Now, I am going to deal probably tomorrow further with the question of these J.P. forms, and I do not know as to whether you can tell me what the representations were that were made to the Japanese as to the benefits that were to be obtained by registering their property on the J.P. form. A:There again I could not give you any -- I had no specific knowledge at the time the registrations were being made that the purpose was to inform the Custodian as much as possible of the assets the Japanese were leaving in a protected area.

Q Did you not actually, yourself, take any of those J.P. forms when you joined the staff?

A No, I never made one registration.

Q But you joined the staff at what date?

A The 1st of April, '42.

Q The 1st of April '42, and the evacuation began on March 1st, '42. A: Yes.

Q So that the evacuation had not been proceeding very far when you joined the staff?

A That is true, sir.

Q How soon was it that they started introducing the J.P. forms? A: They had been introduced at the time I was there.

Q A large number of them were taken subsequently to

you joining the staff?

A Yes, that is true.

Q Do I understand you to say that you have no knowledge as to what representations were made to the Japanese as to the benefits which they would gain by registering on these J.P. forms?

A Only the knowledge that has come to me since from those who were there at the time, employed in that particular work.

Q Well, what has come to your knowledge as to these representations that were made?

A That the Japanese when registering were encouraged to supply all the information that he could possibly could, just for the very purpose of helping the Custodian to do a job for him, to protect those things which were being left in his custody.

Q To protect those things which he set out in his J.P. Form? A: That is right.

Q And as I understand it at that time, the Japanese were in a very upset state. They were not sure what was going to happen to their effects.

A I think it is a fair statement to make in a large number of cases.

Q And some of them were rather suspicious of the Custodian and his office.

A Some of them would be, yes.

Q And it took a degree of persuasion to get a lot of them to register?

A I could not give a specific answer to that; I did

not speak to any Japanese at all at that time.

Q From the reports which you had at your office, would that statement appear to be true?

A Just what was the question now?

Q That it took a fair amount of persuasion to get some of these people to register?

A I am sorry, I cannot give an answer to that.

Q Now, you gave evidence yesterday as to a list of agents and you filed, as I recall it, Exhibits 1 and 2 -- I think the first instructions and the subsequent instructions which were given to these -- no, you saw them investigated.

A Investigaged.

Q But then subsequently you appointed agents?

A Yes.

Q In various places. I think you gave that evidence?

A Yes.

Q And you issued instructions to these agents, did you not, written instructions?

A I cannot -- yes, there would have been written instructions to real estate agents.

Q No, not only to real estate agents but to other persons. For instance, Mr. Mather was one of them.

A That is in the exhibit that has been put in --

Q I suggest there were other instructions given to people like J. D. Mather to actually go and take possession of those goods?

A Yes, following the report of the investigator, the agent, there would be -- according to what the recommendations were, there would in cases

be instructions given to other people, possibly back to the same investigating agent, in some cases, to proceed to take control on behalf of the Custodian.

Q That was a general form letter, was it?

A Yes, I believe it was.

Q Perhaps when you are getting the other material that I mentioned, you will be able to produce that? A: I will endeavour to do so.

Q In any event, agents did act upon those instructions? A: They were asked to act upon those instructions.

Q And they exercised the powers given to them under those instructions, whether the goods were left in the control or custody of some other person or not. Is that not true?

A They exercised control, did you say?

Q They exercised the powers given under those instructions to take possession of those goods in the name of the Custodian, although they may have actually left the goods there?

A When they were left in the custody of other persons, they were not disturbed at all at that time.

Q But did those agents go around to the persons in whose custody or care they were and produce your letter of authority and instruct those people that this was now under the Custodian's control?

A I don't think I can answer specifically.

Q Do you know--

THE COMMISSIONER: I think that is pretty clear from the answer that the witness has given; a great deal depends on what the nature of the instructions are. We will see the letter.

MR. McMASTER: Yes, we will see the letter tomorrow.

Q I have actually some of them -- I think actually some of them have been filed in some of the cases. Now, when it came to inventoring goods or taking them for disposition; that is, for liquidation, sale, the Custodian did not observe the terms of any lease which the Japanese had made. Is that correct? That is, it went in despite the fact that these goods ~~that~~ were leased to the tenants. He took them and put them away and sold them?

A No, I am not aware that he did.

Q You say that if the Japanese had leased his land and premises and together with them his goods and chattels, at the time of the liquidation policy, that the Custodian would leave the goods on the premises for the use of the tenants as a general policy? A: Up to the expiration of the lease, yes.

Q Up to the expiration of the lease?

A Yes.

Q Oh, generally you say that is true?

A Generally that was true.

Q Now, those inspectors or field men that you appointed and the instructions in respect to which you filed, Exhibit No. 1, you advised them to make reports to the Custodian? A: Yes.

Q And I take it in the main they did so make reports?

A Yes, there are exhibits in that connection.

Q How long after those reports from those inspectors were received was it before the Custodian dealt with the recommendations that were contained in the report? I am speaking generally. I realize it must vary with each case.

A I can only say that the staff of the Custodian's office were endeavouring to follow out the recommendations which came to him from those investigators just as fast as it was physically possible so to do.

Q I appreciate that. I am not being critical, but I would like to know roughly how long it would be before the recommendations by those men would be acted upon by the Custodian?

A You realize those were coming in at the rate of probably 2,000 a month at that time.

Q Yes. A: Do you want to know the average time?

Q Yes, approximately the general average.

A I am back on the same question as before. I have figures here which -- I really do want to be helpful -- that is not exactly the question you asked me. This can be filed. Those are dates of evacuation and dates when these Japanese were first approached, andin these cases there is one month, two months, three months, four months, but this was really the initial inspection, and then back came the report to the office.

Q Those would be the dates, I take it, when the inspectors appointed under the instructions filed as Exhibit 1, interviewed the Japanese if he was there? A: Yes.

Q Can you give me -- if it is impossible to do so, say so, but I would like a rough estimate of how long it would be between receiving the report of these inspectors and the time when the Custodian could physically get around to doing something about the recommendations that were contained in the reports? A: Well, I think the only answer I can give is from one to eighteen months.

Q Now, as a general rule, did you follow the recommendations of these inspectors?

A I would say as a general rule, we did.

Q Have you any idea how many recommendations you received from those inspectors altogether?

A No, I am not in a posisition to state, but we received reports from all the cases.

Q I would like to refer to Exhibit No. 2, the second instructions to the inspector, and I would ask Mr. Shears to read Clause 6 of those instructions.

A That is correct.

Q Now, I suggest to you that under that instruction any disposition, whether by sale or lease or otherwise, that the Japanese wished to make of this property -- that it required that the matter be referred to the Custodian. In effect, the Custodian decided whether it was proper or other-

wise so to do? A:Yes, I would say so.

MR. HUNTER: This is subsequent to evacuation?

MR. McMASTER: No, I take it those are before evacuation, most of those inspections were done.

Q Is that not so? A: Well, they varied. There were inspections while they were there and after they were gone, and very often inspections were made when the husband had been removed and the wife was still there.

MR. HUNTER: In any case, the property was not vested until evacuation.

MR. McMA STER: Unless it was registered.

MR. HUNTER: Registration does not change it.

MR. McMASTER: That will be a matter of argument.

Q My notes showed that you made a general reference that the property was in poor condition. I would suggest to you that in that reference, you were referring to this urban property -- you were referring primarily to certain of the premises in what is called by the Powell Street area? A: That was one district, but there were others.

Q Where else? A:At Steveston.

Q Any other areas where it applied to?

A Only from information that came to me from some of the outside isolated properties along the coast.

Q With respect to the other properties in the city of Vancouver, was your statement intended to

those outside of the Powell Street area?

A Not to any great number, which I think I indicated yesterday. I was not giving it as a sweeping statement, but there were a great number of properties which were in that sub-standard class.

Q And the comments which you made with respect to City Reglations as applying to the urban properties, primarily referring to the City of Vancouver, applied, having regard to the number we have to deal with -- applied only to a relatively small group of the urban properties.

A Well, it would apply to possibly 300 or 400 -- oh, no, excuse me -- it would apply possibly to a couple of hundred.

Q Out of how many? A: Out of about 500.

Q You say that 200 out of 500 were guilty of building infractions?

A I didn't say that at all.

Q I was referring to your evidence yesterday that a lot of these properties were in poor grace with the Building Department of the City of Vancouver.

A Yes.

Q I put it to you that would only apply to a relatively small number of prpperties.

A That would be of an extreme ~~xxxxx~~ cases, a limited number, but there was --

THE COMMISSIONER: Yes?

A I was going to say -- my statement was that a large number of the properties were definitely

in the lower priced bracket and sub-standard. Then I went on to say that there were some which were in such a condition that even the City authorities felt they had to be condemned.

Q How many properties were condemned? Did I understand you are --

A This is information we are going to get.

Q The rest was to be provided?

A Yes, and I will ask for the information.

Q That information will be provided?

A Yes.

THE COMMISSIONER: The houses that were condemned?

A Yes. You asked for that, sir.

MR. McMASTER: Q: In your evidence you suggested when the property was not in good shape and you obtained a tenant for it, that often the arrangement was that the tenant would do certain repairs to the premises?

A Yes, we had quite a number of cases where the tenant made repairs and we rebated 1, 2, 3, 4, 5, 6 months rental to take care of it.

Q The repairs were in lieu of rent?

A The repairs were in lieu of rent.

Q And were charged up to the Japanese? He didn't get his rent?

A He didn't get his rent.

Q And in other cases the Custodian did the repairs to the premises?

A Yes, repairs were done.

Q And in some cases those were very expensive?

A Only if there was money available for that purpose. On no occasion did the Custodian make any repairs by way of advances. It had to be taken out of the tenant or else the Japanese himself provided it out of funds.

Q Did you limit yourself in making those repairs just to revenue from the property, or if the Japanese had money on hand from other sources, would you take it from that as well?

A I don't recollect that we would take it from other sources, unless we first consulted the Japanese.

Q But in some cases you did consult him and he agreed? A: And repairs were made, yes.

Q Now, can you give the Commissioner any estimate, either now or subsequently, as to how much money the Custodian spent on repairs to buildings -- let us limit ourselves to the City of Vancouver?

A If you require the information, I will have to try and dig it up.

Q Will that be difficult to ascertain?

A The amount of money which the Custodian spent?

Q On repairs to buildings in the City of Vancouver, or it if would be easier to do it in relation to all properties other than D.V.L.A.

A The difficulty is that expenses of this nature, when they are incurred, are just charged to the individual Japanese accounts.

Q There was no general --

A We have no general repair account.

Q It would be difficult?

A It would be very difficult.

THE COMMISSIONER: I do not think there is any occasion to require the Custodian to do that.

MR. McMASTER: No, my lord.

Q I have forgotten as to whether you told us the total rents that were received, other than from farm properties. I think you gave us a total rental figure. I think it was $600,000.00 or $650,000.00 approximately.

THE COMMISSIONER: Q: That is, rents recovered?

A Yes, rentals that the Custodian had recovered.

MR. M cMASTER: Q: Do your figures show any breakdown of that? Would it be possible for you to tell us the amount collected in 1942 and up to July 1943?

A That could be obtained.

Q I would ask that you be good enough, when getting me that other information --

THE COMMISSIONER: This is limited to urban properties.

MR. McMASTER: If it is possible to do so. If is not possible to do so, to all properties other than D.V.L.A. A: We will do what we can.

Q Now, I take it, Mr. Shears, that it took a little while to get the title to these properties through, even after the Committee approved the sale?

A You are speaking of the D.V.L.A.?

Q No. A: I am sorry.

Q How long did it take between the time that a

tenderer -- the closing date for tenders and the time that the man actually had title that he could register in the Land Title Office?

A It varied from one to four months. There were one or two factors,-- The Land Titles Office at that time was extremely busy and we were not able --

Q I am sorry; I am not referring to the Certificate of Title. I mean the actual conveyance from the Custodian, the documents that he would then take and register. How long would it be up to the time you handed the man a deed of land which he could register? A: We did not do that. In every case where we registered it ourselves -- it was part of our policy to see that the property got out of the name of the Custodian into the new purchasers and we even continued into the picture up until the time the property was actuall registered in the purchaser's name.

Q How long would it be between the time the tenders closed and the time that somebody from your office would apply to register that deed in the Land Registry Office?

A One to three months.

Q It might be anything from one to three months?

A Yes.

Q And was the deed signed in Ottawa?

A The deed was signed in Ottawa.

Q Now, P.C. 469, which you put forward as being the background for the policy of liquidation,

provided for the sale of property on terms, did it not? A: The Order-in-Council had no reference as far as any terms --

THE COMMISSIONER: The Order-in-Council will speak for itself, will it not?

MR. McMASTER: Q: Well, in any event without the necessity of referring to the Order-in-Council, did the Custodian and the Advisory Committees take it that they were free to dispose of this property on terms, as distinguished from cash, if they so desired? A: If they so desired.

Q My recollection of your evidence was that the Vancouver Committee decided only to sell for cash. A: Yes.

MR. HUNTER: "On such terms and conditions as he deems advisable."

MR. MCMASTER: Q: Now, the Westminster Committee, or the -- A: The Rural Committee.

Q Rural Committee is the proper definition -- it did in a few cases agree to sell on terms?

A On terms, yes.

Q And as a matter of fact, that policy of selling for cash was adopted by the Custodian with respect to all types of property that he sold, with the exception of this property that the urban Committee dealt with?

A Yes, always for cash with that exception.

Q Why did the Committees adopt this policy of selling

for cash only?

A I really cannot say. It was just the recommendation which came from Mr. Justice Smith's Committee and I acted upon it.

Q Were you present at the meeting of the Rural Committee when they decided on this question?

A Yes.

Q. Could you not tell from being present at that discussion that they adopted the policy of selling for cash? A: The minutes would of course, make it plain, but my recollection is that that particular Committee felt that so long as the Custodian saw it was properly segregated, that they saw no objection to properties being sold -- some properties being sold on time, provided the initial payment was, in their judgment, sufficient to well protect the Custodian.

Q In the advertising of properties by the Rural Committee, did they in any way whatever indicate that terms might be arranged?

A No, I don't think so.

Q In fact, the advertisements said it would be a cash transaction, so it would be only a man who came along and asked if he could get terms who might have notice that he could arrange terms?

A It was not the general wish of that Rural Committee that property should be sold on time, but this was after the initial tenders, of course. If after the tenders were closed there were offers that came along on a term basis, they

would be prepared to consider them. There is a minute .

Q I refer to the minutes, Mr. Sheas. Was there an expression of opinion by Mr. MacKenzie at a meeting of the Rural Committee that all sales should be for cash, although he was of opinion that such a rule by theCommittee might result in considerable curtailment in the number of sales?

A That was in one of the early meetings, but later on they dealt with the question specifically.

Q Now,Mr. MacKenzie did express that opinion?

A He did express that opinion.

Q So that the opinion, the general opinion of the Committee was -- or was that just Mr. MacKenzie?

A My recollection, on that occasion, it was just Mr. MacKenzie's opinion.

Q Subsequently, did the Committee recognize it might result in curtailment of sales?

A No, that really was not the purpose.

Q I would not suggest it was the purpose.

THE COMMISSIONER: Let the witness answer before you stop him; complete your answer.

A All that the Committee said that they would be prepared, if the property could not -- appeared not to be able to be sold for cash and if there were applications for terms, under certain conditions they would be prepared to recommend that the property be sold on terms.

Q But the question was whether the Committee considered the possibility that the adoption of a

policy of advertising for cash only might result in the curtailment of the number of sales?

A I would say the minutes would have to speak for themselves.

Q You have no recollection?

A I have not any particular recollection.

Q Was thereany suggestion in the discussion of the Rural Commitee that not selling on terms would be that it might save administrative costs?

Q No,I do not recollect that was discussed in the Rural Committee.

Q How many meetings did the Vancouver Committee hold, do you know?

A I cannot say. I indicated that for quite a time they were holding one a week.

Q How long would it be after the closing of tender date before the person making the tender would be advised that his tender had been accepted; assuming that he made an acceptable tender?

A I don't think there was any long time lagged. I believe I got my recommendation from the Committee within two or three weeks after they were notified.

Q Now, I put to you, witness,that any purchasers with an alternative private sale would be discouraged from tendering unless they were going to get a good buy on the tender that was made?

THE COMMISSIONER: That is a matter for argument, I think.

MR. McMASTER: Very well, my lord.

Q You may have given this information. It does not appear in my notes. How many properties were dealt with by the Vancouver Committee? That would appear -- A: I think it appears in what I have already put in.

THE COMMISSIONER: 900.

A No, not in Vancouver; 900 outside the D.V.L.A. I think it will be about 500 by the Urban; about 500 by the urban and 400 by the rural, in addition to the D.V.L.A.

MR. McMASTER:

Q You put in certain advertisements with regard to the sale of property other than the D.V.L.A. lands the other day. There were three ads. Were those all the advertisements which appeared in the newspapers? A: Well, everytime a new catalogue was published there were fresh advertisements.

Q You filed three. Now, was that all? Were there three separate times that advertisement would be put in, or were there more?

A My recollection is there were only those three occasions.

Q How many times did they appear in the paper on each of the three occasions? What were the dates?

A The exhibits will show. I have not the actual date.

THE COMMISSIONER: Have you those advertisements, Mr. Watson?

THE WITNESS: It may not, and if it does not I prefer to make inquiries.

MR. McMASTER: Q: Exhibit 7? A: That won't

show it, I am sure.

THE COMMISSIONER: 7, 8 and 9.

THE WITNESS: I am afraid I would prefer to get accurate information.

MR. McMASTER: Q: Well, you will advise theCommission tomorrow as tohow many times -- as to how many days each of those advertiseements appeared on each occasion? A: Yes.

Q Now, you mentioned that 60 or 80 parcels were specially advertised on November 20, 1943.

A No, that is not correct.

Q No? A: That was a sample of some properties which were specially advertised, and at various times a quota of 60 or 80 were advertised.

Q I am sorry, I misunderstood you there.

Q No, that is not right.

Q From time to time, special peroperties were advertised? A: Yes, from time to time.

Q Do you know how many times?

A Oh, a considerable number of times. You can see by that 10 or 15 properties on that we usually advertised in groups of 10.

Q Would those advertisements appear only for one day? A: I would like to check. I think no. If not, they were staggered in different newspapers, different days.

Q I understood you to say that you paid commissions to named agents, even if they had nothing to do

with the presenting of successful tenders?

A That is true.

Q Or even if they had nothing to do with the presenting of any tender?

A That is also true.

Q You referred to the fact that Mr. Reeve had been appointed as an appraiser on the urban properties. He was the first appraiser appointed?

A Yes.

Q And that he was worked very hard.

A Yes.

Q How long did that situation continue? Until you obtained assistance for him?

A I believe said the date, did I not, in the evidence yesterday?

Q I don't find it in my notes.

A On August 4, 1943, is when Mr. Reeve suggested to me and I passed it on to the Committee that he needed help.

Q How soon was it before help was forthcoming?

A Almost immediately. Mr. Justice Smith's Committee advised we should get in touch with Mr. Harvey, the Secretary of the Vancouver Real Estate Board, and that he would help; not only he would help, but he would suggest some other appraisers.

Q Would it be a week or two after?

A Not more than a week or two.

Q And Mr. Reeve was appointed when?

A Well, it was on August 4th when he asked for help. He had been appraising before then.

Q It would be around July 1st?

A He had been appraising from the end of June.

Q Have you any idea how many properties he appraised between the date of his appointment andthe date help was forthcoming?

A No, I have no record here.

Q Now, in some cases, witness, there was more than one appraisal made of a property and where there was a large difference between the appraisals, can you tell us whether it was the practice of the Custodian or the Committee to call the appraisers in to ascertain the reason for the difference in appraisals?

A Not to my knowledge. It may be that the Urban Committee did call in some of the appraisers. I cannot give evidence onthat.

Q Now, witness, you saw most of the tenders if not all of the tenders that came in?

A Practically all of them.

Q With regard to real property?

A Yes.

Q And I put it to you a lot of tenders which you received were low in relation to the appraisal which you had?

A We did receive a lot of tenders which were low.

THE COMMISSIONER: He gave the percentage; 52% over a period of a year; 870 properties offered for sale; only 455 were tendered for; that is, 50 % over a period of a year, during which only 25% of the tenders were accepted.

MR. McMASTER: Q: I might put my question differently: They were very low in relation to the appraisal; that is, it would be less than 50% of the appraisal?

THE COMMISSIONER: I do not see how that can be answered.

THE WITNESS: I would say that there were occasions where we received tenders that appeared to be very low, but that was not by any means general.

THE COMMISSIONER: Have you much more cross-examination on this particular line?

MR. McMASTER: No, I think I can finish in a few minutes on this line and then I will proceed inthe morning.

Q Once you adopted the policy of advising people what the appraised value of the property was. you agree in this case as you did in the case of the cars, it fixed a ceiling on tenders?

A Not quite in this case, because we appraise in such a way that is the minimum, and in some cases, quite a few cases, people did tender somewhat above the minimum, thinking, perhaps, they could protect against somebody else who might bid just the appraised price.

Q That was in cases where they were advised that they had somebody tendering against them. It seemed to me that you reached the stage where you called for offers just not for tenders?

A We reached the stage where we were prepared to reveal to anybody inquiring what was our minimum price.

Q You would agree that would be the maximum you would be likely to receive by way of offer with respect to those properties?

A You would think so, but there was a number of cases where those people came back and raised it $50.00 or something, probably to protect themselves.

Q You mentioned that in some cases the consideration of tenders was held up because the appraisals had not been made. Can you give us any rough idea in how many cases that would be?

A That was true in the early days, when the response came in from the initial tenderers. I don't want to be specific, but there was quite a number of properties which had to be held in abeyance for a matter of a few weeks before they could be dealt with.

Q Now, as soon as you received advice from the Committee as to the persons whose tenders had been accepted or rejected, they were advised immediately?

A Yes, we advised them immediately.

Q It would seem to me in one of your letters which you filed, Exhibit No.16, which was a letter addressed to certain real estate agents, that you referred to a complaint by them with regard to delay.

THE COMMISSIONER: Complaint by the real estate agents?

MR. McMASTER: Yes.

THE WITNESS: Was that an exhibit?

MR. McMASTER: Q: I better make sure of my notes. I am

sorry. My reference appears to be incorrect. I will put it this way: Was there any complaint by real estate agents in regard to the delay in getting the title?

A Only to a limited extent. Nothing to impress it upon my memory. There was no general complaint.

Q Now, referring to Exhibit No. 16. I notice that was a minute of a meeting at which a number of real estate firms in the City of Vancouver appeared. A: It is scarcely a minute-- my notes of the meeting.

Q It indicates there was a strong feeling some consideration should be given to selling certain properties on a time basis?

A Yes, that is true.

Q It was mentioned in certain types of property there would be difficulty in procuring a market, and many prospective purchasers were not in any position to pay cash. Now, was that strong recommendation passed on to the Advisory Committee?

A That was passed on to the Advisory Committee.

Q Did they take any action?

A They still considered the properties were being sold sufficiently fast and they did not need to change that policy.

Q What was the policy of the Custodian where some person tendered on terms; they put up their deposit and after the closing date for tenders, they wished to withdraw their tenders?

A We only had a few cases and theye were one or two cases where we decided to not hold them to their bargain and returned the money.

Q And you returned the money?

A And we returned the money.

Q Referring to Exhibit No. 7, witness, that is the advertisement with regard to the sale of real property -- I take it City of Vancouver property-- one of the conditions of sale was that the properties will be sold subject to existing leases, encumbrances, if any. Did the Custodian or the Advisory Committee take the view that the Custodian was not in a position to obtain vacant possession of any of these premises?

A We were not in any position to take --?

Q Did the Custodian take that view? Was that the advice on which he worked, that he was not able to get vacant possession so as to sell on a permanent basis?

A I am sorry, I don't quite get it.

THE COMMISSIONER: Q: Was that decision made because of rental controls or because of a decision of the Custodian?

A There was no decision of theCustodian. We just had to follow the normal procedure.

Q You considered that you were bound, then, the Custodian was bound by the rental control regulations? A: We considered it all the time.

Q And could not rely on the provincial law?

A We did not.

Q Did the Custodian ever obtain legal advice on that? A:Not that I am aware of.

MR. McMASTER: Now, my lord, I would suggest that we adjourn now until the morning.

THE COMMISSIONER: Very good.

(HEARING ADJOURNED AT 4;15 P.M. UNTIL 10:00 A.M. FRIDAY, SEPTEMBER 24th, 1948.)

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

Deputy Official Stenographer

Vancouver, B.C.

September 24th, 1948. 10.a.m.

(PROCEEDINGS RESUMED).

F. G. SHEARS, resumes stand.

CROSS EXAMINATION BY MR. McMASTER RESUMED.

MR. McMASTER: I would like to return to the D.V.L.A. transaction to get one point cleared up, Mr. Shears.

MR. At the time of the sale to the D.V.L.A. of these 741 parcels the rents were adjusted back to January 1st, 1943? A. Yes, that is correct.

Q And included in the leases with respect to which you had received rents there would in many cases have been farm implements and chattels?

A Yes.

Q Was any adjustment made with the Soldiers' Settlement Board for the preportionate rent which should be applied to the lease of the farm implements and chattels? A. No, that was not done.

Q Returning to the subject of chattels, what machinery was there for the Custodian to be advised of by these various agents who were looking after urban property as to changes of tenancy?

A He left that entirely in the hands of the agents we appointed.

Q And if there were any changes in tenancy, did the agents whom you appointed advise you of those changes immediately, or at all?

A They advised us at the end of the month. Each month

they reported to the Custodian the rents they collected and changes of tenancy.

Q And when you were so advised was anything done with respect to any chattels of Japanese persons which might be in the premises?

A Generally speaking, yes.

Q What was done? A. You are speaking of urban property?

Q Yes. A. The matter was referred to our Protection Department and they took what they considered appropriate action.

Q What would that action be?

A By removing the chattels, in the main, I would say, is what they would be doing.

Q With respect to the rural properties which had been sold to the D.L.A., in many instances chattels of Japanese persons, being farm implements and household effects, continued to be left in the premises?

A That is true.

Q Were you advised by the Soldiers' Settlement Board as to any changes in tenancy?

A We were sometimes.

Q And what was done when you were so advised?

A As I said before when we were advised we took what action we could to take actual possession of the chattels.

Q I put to you witness, that the B.C.Security Commission discouraged the shipment of goods to persons who continued to reside in British Columbia?

A We always got their consent to ship them before we

shipped them to the Interior Housing Settlement.

Q And I put it to you that the policy of the B.C. Security Commission was to encourage persons who resided in British Columbia to move east of British Columbia?

A That is true.

Q And in accordance with that policy they discouraged the shipment of any large quantity of goods and chattels to persons who continued to reside in British Columbia?

A I wouldn't say that was the purpose only. I think it was considered there was not sufficient room in these Interior Housing Settelments and the Japanese in that particular location had all that was necessary.

Q Irrespective of purpose they did discourage the shipment of large quantities of goods?

A Yes.

Q And it would be true that the freight charges on large quantities of household effects east of the Rockies would be fairly heavy?

A That is right.

Q And if the Japanese requested this property, he was required to pay those freight charges?

A That was the policy.

Q Mr. Virtue the other day asked you to produce a form letter or circular. I believe you have that with you this morning?

A Yes.

Q Would you just explain to the Commissioner what

the document is and then we will put it in as an exhibit? A. This is a letter that was sent out by the British Columbia Security Commission to all their supervisors in the various camps in regard to the shipment of furniture. For your information I would like to read it. (Reading). That letter was dated the 8th May,1944. The first auction of course had been held in September 1943, and it was at this time we discouraged shipments.

(CIRCULAR REFERRED TO DATED 8th MAY 1944, EXHIBIT GENERAL 39.)

Q The sale of chattels proceeded as I understood, from September 1943 until the middle of 1945.

A Yes.

Q That is the main bulk?

A Yes.

Q There may have been some before or after?

THE COMMISSIONER: Q; Can I have those dates again?

A Up to May 1945. There were some afterwards, but from May 1943 to May 1945 would be the dates of most of the auctions held here.

MR. McMASTER: Q: May or September?

A September 1943 until the middle of 1945.

Q You have filed as Ehxibit 21, certain advertisements published in the newspapers with respect to auctions of chattels. Is it your suggestion that these are fair samples of the type of advertisement that appeared? A. Yes, I would say so. I picked them out very hurriedly.

Q I asked you yesterday, and you asked to have an opportunity to inquire, how many times certain other

advertisements had been put in the paper. Can you advise me how many days these various advertisements appear that is each ad?

A In regard to auctions I believe only on the one occasion.

THE COMMISSIONER: Q: And what was the situation in regard to real property?

A I would prefer, if you would allow me, to make further inquiries. I have asked but I can't get it quite clarified.

MR. McMASTER: I might say with respect to certain material and information the witness was asked to obtain that he spoke to me before the hearing this morning and I spoke to Mr. Hunter and I take it it is agreed that at some later stage of these general hearings, he will be recalled to give that information and if necessary be examined on it.

Q Was there any catalogue made of the goods at each auction? A. Any catalogue?

Q Any catalogue made of the goods that were to be sold at each auction, that would be available to the purchasers? A. No.

Q And were the purchasers given any opportunity to examine the goods and chattels that were to be sold?

A Yes, they were all laid out at least the day previous.

Q Was there any notice given to the public that they could examine those the day previous to the auction?

A Could I look at the exhibits?

Q In any event you would say there was no further notice given other than what may have appeared in the advertisement?

A I know of none.

THE COMMISSIONER: We might have it cleared up. Is there anything in the advertisement?

MR. HUNTER: The auctioneers are being called, my lord. They can give all this evidence.

MR. McMASTER: I understood the Custodian did the advertising.

MR. HUNTER: No, the Auctioneer did the advertising.

THE COMMISSIONER: That is correct?

THE WITNESS: We controlled the advertising. That is to say we said that certain phrases at the start and at the end would be published, but we left it to the auctioneer the best methods of advertising. That is, that middle part where they speak of particular items.

MR. McMASTER: Q: Perhaps you had better look at these and answer the last question.

A It doesn't appear to be in the advertisements. I do know that the goods were always laid out the previous day. Our own staff assisted in doing it.

Q Were there any reserves placed on any of the goods or chattels that were auctioned?

A Usually speaking, no. There were some cases when reserves were placed. And then of course, there was always the question of ceiling prices on certain articles.

Q On whose instructions were the re-serves placed?

A By the Custodian.

Q And on what basis did he place those reserves?

A In a limited number of instances he would think possibly this particular thing being advertised should have some reserve and in consultation with the auctioneer there was a reserve put on, but generally speaking there was no reserve.

Q Was there any specific appraisal of those things on which a reserve was placed?

A I believe it was just in consultation with the auctioneer, from his advice.

Q From my observations of the auction sheets there appear to be a number of occasions when boxes of miscellaneous goods were sold. Was any inventory kept of what those miscellaneous goods were?

A No, only as the auction returns recorded them as a box containing cutlery or chinaware or whatever it might have been. All the goods in the one box belonged to the same owner.

Q And the reports that you received from the auctioneer were the same reports we had had filed?

A On those yellow sheets you have seen from time to time, yes.

Q Where it just said a box of miscellaneous goods, did the Custodian receive any further advice than that as to what was sold?

A No.

Q In some of the sheets my recollection is it has just got an item miscellaneous so much?

A Yes.

Q Did you have any detailed report on those?

A No, we have no detailed report.

THE COMMISSIONER: Q: What was the nature of the goods sold in those classifications?

A Just odds and ends, perhaps a cup and saucer and a little tin pan -- just the remnants really. I have seen considerable numbers of them myself. There might sometimes be one article at the top which would have some significance surrounded by a lot of other things which were not of any intrinsic value at all.

MR. McMASTER: Q: Whom did you employ to appraise those chattels on which you called for tenders?

A I don't recall at the moment. It would depend on the type of articles being advertised. Mr. John Gould, I believe, appraised some engines we had sold. I would rather not be specific. I can make inquiries.

THE COMMISSIONER: Q: Apart from the names of the individuals how did you go about selecting the persons you employed as appraisers; what policy did you adopt in making your selection?

A Just reputable people who would appear to have knowledge of the type of article in which we were interested. There was a limited amount of articles sold that way.

MR. McMASTER: Q: Did you obtain any advice from anybody or did you exercise your own discretion as to who would be a suitable person to be an appraiser?

A I don't recall whether that particular matter was specifically brought to the attention of the advisory committees or not.

Q These articles appraised and sold by tender, were

they advertised? A. They were advertised.

Q In the same manner as the other chattels?

A Yes.

Q How long was given for tenders?

A I wouldn't care to say. There was a period of time, usually about thirty days.

Q Would you have readily available at the office a sample of an advertisement with respect to that?

A I did ask, as a matter of fact, but they must be in--

MR. HUNTER: There have been a number of them put in in individual cases, and I am sure my friend will recall them.

THE COMMISSIONER: As I recall it is of that character, however, if you can dig them up, I wish you would.

A They are on the individual files, but we will do what we can.

MR. HUNTER: I suggest that Mr. Shears get one of the files from which a claim hasn't been made.

MR. McMASTER: Q; And you might at the same time ascertain as to how many times those advertisements appeared, how many days? A. Yes, I will do so.

Q Have you any idea how much in terms of price -- how many goods were sold to tenants?

A No, I have not.

THE COMMISSIONER: Q; The only way Mr. Shears can hope to answer would be in total percentage of sales.

MR. McMASTER: Q: Let us put it that way -- percentage of total sales. Have you any idea?

A You will appreciate it is only a guess. It is only

a matter of three or four or five percent.

Q From three percent to five percent would be your rough estimate?

A Yes.

Q You found when the Japanese were evacuated that you had a number of businesses on your hands?

A Yes.

Q And what was the procedure of the Custodian's office in dealing with those?

A I can give you a fair idea but I would like you to appreciate that these businesses were among the first things that were sold, and while I was in the office at that time I knew very little of what was going on; but generally speaking the agents which the Custodian had appointed worked in co-operation with the Japanese owner and in some way or other contacted persons who might be interested in the purchase of their business, and generally speaking the whole deal was consummated by the Japanese before he was evacuated and by himself.

Q I am referring to sales where the Japanese wasn't in the picture. I can think of a number of cases I have had, and I am sure other counsel have had, where the Japanese didn't arrange the sale before they left. Do you know the procedure that was followed with regard to those businesses?

A The procedure would be our usual procedure, or if the business was being carried on in some remote place, our procedure was to take the goods and advertise them for sale by tender.

Q And what was done with regard to the taking of inventories? A. It is not clear in my mind. It would be the duty of the agents to be doing that.

Q Most of this happened before you became in a responsible position in the office?

A Yes.

THE COMMISSIONER: Q; Did not the Custodian employ organizations such as the Canadian Credit Men's Association to appraise and carry out such sales?

A That is what I am referring to. They were the agents who made the investigation and reported and they were advised of the procedure and it was those people who worked in consultation with the owners when they were there and when the owners were evacuated they were the agents who generally speaking carried on on behalf of the Custodian.

MR. McMASTER: Q: J. D. Mather did some of that work?

A Yes.

THE COMMISSIONER: He was an authorized trustee under the Bankruptcy Act?

MR. McMASTER: Yes.

THE COMMISSIONER: Q: Was not that your practice, to employ authorized trustees under the Bankruptcy Act, generally speaking?

A Generally speaking , they were the names suggested originally at the time Dr. Coleman came to Vancouver.

THE COMMISSIONER: I recall a number of such instances in claims I have heard already.

MR. McMASTER: Q: Among the stock-in-trade of such businesses, and I would think among some of the

goods and chattels of the persons who moved, there would be articles which would be of particular use to persons of the Japanese race and would be not in normal use among occidental people, is that correct? A. Yes, there were cases like that.

Q Did the Custodian make any attempt to dispose of those types of things among a Japanese community?

A Originally we refrained from offering that particular type for sale at all, giving longer time for the shipment to the Japanese owner if he desired, but at a later date they were sold and there is no particular discrimination in placing them among sections of the population who would be interested in that particular type of article.

Q I appreciate your general answer, Mr. Shears. Being more specific, in terms of the case that comes to my mind,-- I don't want to deal with this specific case-- the store of Kitigawa at Steveston where he had in stock quantities of foods and clothing and that type of thing which were there particularly for his Japanese trade. There must be other cases of that nature. In those cases were those sold in the same way as any other chattels?

A Using that as an example those goods were advertised for sale and when the offer was accepted -- the particular purchaser as amatter of fact, advertised these goods in the New Canadian and other places, and I believe he sold himself to Japanese persons a considerable quantity of goods that were in that store.

CROSS EXAMINATION BY MR. VIRTUE:

Q I wanted to ask if youhad and will produce now a list which you were using yesterday showing, I think, the dates of evacuation as compared with the date of the first inspection?

A Yes, I have two sample sheets. It is just headed "Examples of lapse of time from date of evacuation till Custodian took possession". It is only a few compared with the total number.

Q If you will put those in, that will be sufficient.

(TABLE DEALING WITH "TIME LAG" MARKED EXHIBIT GENERAL 40.)

MR. VIRTUE: My lord, I wish to read into the record excerpts from the minutes of the meeting of the Rural Advisory committee, Volume 1. The first one is the second meeting held March 18th,1943, page three: " He of course, did not wish to disclose. . . . . with the approval of the Commission."

MR. HUNTER: I think it should be pointed out that is a quotation.

MR. VIRTUE: This is taken directly from the minutes.

THE WITNESS: But Mr. Barnett was not there and in making that statement he was being quoted.

MR. VIRTUE: Q: It says, " Mr. Barnett indicated".

A But prior to that it is a statement of somebody else.

Q Well, I was misled by that. Mr. McPherson was quoting Mr. Barnett?

A Yes.

Q Then again quoting Mr. Barnett apparently oh page 4: " Mr. Barnett felt that the proposed . . . . . .

. . . . . farm unit".

Page 5, "In addition to this regrouping . . . . . of the former Japanese owner."

MR. HUNTER: This is foundation for cross-examination, is it, my lord?

THE COMMISSIONER: I do not know Mr. Virtue's purpose in reading these minutes.

MR. VIRTUE: The purpose is I understood Mr. Shears, subject to his making corrections later, would accept the minutes as true statements.

THE COMMISSIONER: As to what took place in the meeting?

MR. VIRTUE: Yes. I don't want to ask Mr. Shears with regard to each quotation, so I thought I would put them in, and so far as I am concerned if he wishes to correct them I have no objection.

Page 6: "Mr. McPherson explained . . . . . over the public generally".

Page 11: "Mr. Yamaga stated . . . . . many articles had been lost."

Going over to the third meeting held Wednesday, the 19th of May --

MR. HUNTER: If the purpose of this is just to have Mr. Shears verify that is a correct copy of what was said at the meeting I think Mr. Shears could probably say that without reading it. It strikes me as building up a basis for argument rather than cross-examination.

THE COMMISSIONER: Here is the point, Mr. Hunter. The minute book may not be available at the time argument

is presented, and I conclude counsel wishes to have this on the record solely for the purpose of founding argument later.

MR. VIRTUE: That is right. I don't know any other way I can get these excerpts before the Commission.

Page 3: "With reference to another farm . . . . . as a farm proposition."

Page 4: "Mr.McKenzie said he could not understand. . . . . from Mr. Barnett."

The same page, "Mr. McKenzie thought . . . . . on the land was low".

Now the minutes of the fourth meeting, May 24th, 1943. I think there has already gone in the comparative statement showing the spot values selected by the Committee as compared with the Soldiers' Settlement value. I want to make sure that is in, because it is embodied in the minutes.

THE COMMISSIONER: It is in.

MR. VIRTUE: On page 4: "The feeling of all the members of the Committee. . . . . .too low".

THE COMMISSIONER: That is not very helpful if we do not know what offer was referred to.

MR. VIRTUE: It was the offer of the Soldiers' Settlement Board respecting the whole appraisal.

THE COMMISSIONER: That was the initial offer?

MR. VIRTUE: Yes.

THE COMMISSIONER: Which was later increased.

MR. VIRTUE: Yes. Again at page 4: "Mr. McKenzie pointed out . . . . . could have been somewhat higher".

Page 8 of the same minutes: "It was suggested that if the deal was made. . . . . decided at Ottawa".

The fifth meeting on the 1st of June, I merely wish to read an excerpt from a letter written by Mr. Murcheson to Mc. McPherson at page 6 of the minutes to indicate this excerpt actually came before the Committee and was embodied in the minutes:

"Advice received from Mr. Barnett . . . . . at this figure."

Going over to the sixth meeting, page 3: "That in view of such factors. . . . . and continued periodically".

The minutes of the meeting of 13th January, 1944, that is the eighth meeting. I won't read this, but it provides for sales of real estate on a time basis.

Also-I won't read it now -- a letter of Mr. Hal Menzies annexed to the minutes of the eighth meeting held on the 13th January, 1944 in which he gives his recent valuation for a pouple of properties. I am offering that as part of the general evidence for the purposes of comparison. That was written to Mr. Wright dated December 8th, 1943.

THE COMMISSIONER: I think it might be valuable to have that right now.

MR. VIRTUE: I will do that. (Reading). $4200.00. That works out a little less than $200.00 per acre. I should point out that a little later on Mr. Menzies calls attention to the fact in another letter that he has since leanned that the land is subject

to some seepage and he reduces the valuation on the first property by $750.00.

If your lordship wishes me to do so, I will ask Mr. Shears if he agrees with that.

THE COMMISSIONER: He has said the minutes were accurately taken.

Q Referring to the document last put in, Exhibit 40, I observe there are 23 examples given here, 18 of which show inspection made before the Japanese were evacuated? A. Yes.

Q And one were the inspection was not made until two weeks after evacuation, another three weeks after evacuation, and two 13 to 14 weeks after evacuation; in the fifth one four weeks after evacuation. Are you able to say whether the examples which you have given us there bear a fair relation to the situation in all or are they unduly favorable in that/the Steveston area 18 inspections out of 23 were made prior to evacuation?

A I don't think that would be anything like the same proportion on the whole picture; and of course, that is what we call the initial inspection, that is, when these investigating agents appear on the property. They in turn reported to the Custodian and upon their recommendations as soon as we could we proceeded to act further. If real estate were involved we would appoint a real estate agent to become our agent.

Q Are you able to say what the situation was in Vancouver or how the situation in Vancouver compared

with that situation as it appears in this Exhibit 40, in Steveston.

A In Vancouver our initial inspection followed very closely upon advice we got that they were going to be evacuated. It doesn't follow that having the advice we were going to be evacuated that they were evacuated. That is the reason why we go to a persons house, having knowledge that person was to be evacuated.

Q All I am seeking, this is to know how the Vancouver situation compared with the Steveston situation as appears on Exhibit 40?

A The general approach would be as quick.

Q Then in some outlying places such as Victoria, Nanaimo, Chemainus, Tofino, Fraser's Bay, Hakoda Bay, Prince Rupert, Rendezvous and Cortez Islands, it does appear that there was a considerable period running into one month to four or five months?

A Yes.

Q And is that a fair criterion of the overall picture in outlying areas?

A Yes, that would be so.

THE COMMISSIONER: Any re-examination, Mr. Hunter?

MR. HUNTER: Yes, my lord. I didn't expect this cross-examination to peter out so quikcly. I wonder if we might recess now.

MR. McMASTER: My lord, I submit it didn't peter out.

THE COMMISSIONER: The comment is quite unjustified. I think probably counsel is paying heed to comments I made to him yesterday.

MR. VIRTUE: I thought that perhaps Mr. McMaster was

rising in my defence.

THE COMMISSIONER: If you wish to recess now, that is satisfactory.

MR. HUNTER: There is one point which is bound to come up, and that is witnesses. I didn't arrange for another witness today. It maybe I could, but it is pretty difficult at this late date.

THE COMMISSIONER: You have some re-examination?

MR. HUNTER: Oh, yes, my lord.

THE COMMISSIONER: If you can get another witness this morning, all right.

MR. HUNTER: My next witness was for Monday, actually.

(PROCEEDINGS RESUMED AFTER RECESS)

RE-EXAMINATION BY MR. HUNTER:

Q Mr. Shears, during your evidence you have rather stressed the methods by which you sold real property as being sound? Haveyou any reason to believe that the advertisements you published were widely known?

A I believe so. In the first instance we consulted J.J.Gibbons Limited and secured their expert advice as to the best methods of advertising and display and we left all our advertising of all properties in their hands beyond those initial advertisements which had reference to the catalogue and also the subsequent advertisements for individual properties. The only exceptions to putting our advertising through that agency were the auction advertisements , and the particular reason was it

was a local proposition, and as has been brought out, that was not handled through J.J.Gibbons. In addition to the advertising which the Custodian himself did, as I think would be generally known by everybody here, and in fact in the Province, there was a lot of extraneous publicity given the fact that the Custodian was proceeding to sell Japanese lands, not always favourable, but at least making the public very conscious of the fact there were Japanese properties for sale.

THE COMMISSIONER: Q; Who was J.J Gibbons, Limited?

A They are an advertising agency.

MR.HUNTER: They are a very widely known firm, my lord, all over American, practically.

A Personally I doubt if there was a single adult in Vancouver who was not aware that the Custodian was selling Japanese properties, and I doubt very much if there were very many in the whole of British Columbia. In addition to that of course, from time to time there w as even comment made on the radio. So I am convinced that the policy of liquidation of the Japanese properties was very lwidely known.

Q You mentioned the publication of some 9,000 or 12,000 catalogues. How were they distributed?

A It was approximately 12,000 we had printed and as I think I indicated they were distributed to all the real estate agents in Greater Vancouver and between 250 and 300 throughout the Province. Numbers were sent to each of them and in many cases they came back and asked for more to be sent to them. But in addition

to that-- and I know this from personal observations-- we had a large quantity available on the office desk and the general public very frequently came up and asked for catalogues and they were given to them.

Q During your evidence, Mr. Shears, you stated that charges were made against the Japanese relating to motor cars and fishing vessels which were over and above those which were made in other cases. What was the reason for this distinction?

A We considered those particular charges were charges which were over and above the usual charges for administration of that type of chattels which could be removed, to say, a public storage. Among those charges however, it should not be overlooked there was fire insurance, and in all cases, not only those to which you have referred, but in all cases even of real property the Custodian saw to it that the property was kept insured and the premium was charged to the account of the Japanese. The charges in connection with fishing vessels and motorcars were considered to be for the protection of those articles; really to maintain their value. And as I indicated the specific authority as far as I was concerned, came from Ottawa.

Q At one point you mentioned a rather large amount of clothing which had been given away to some charitable organization, I believe. Why was it given away?

MR. McMASTER: My lord, this isn't re-examination I don't think. I didn't touch on the question of clothing

at all.

THE COMMISSIONER: Well, I will hear the answer, it may be of some help.

A It was clothing considered to be of no intrinsic value. Before it was disposed of to the certain institutions which I mentioned -- the Bundles for Britain and some of it to City Japanese -- it was sorted out and anything that was considered to be of value was not included, and before it was so disposed of without remuneration, the auctioneer, Mr. Thompson, inspected the goods and gave us a certificate that in his opinion it had no sale value, and as I think I indicated Judge Whiteside and Mr. Menzies viewed a lot of this type of property at Stefeston , and Alderman Jones went with me to (992 Powell Street and saw the clothing to which I have made reference.

Q The personnel of the Advisory Committees has been mentioned a couple of times. Do you know whether there was any principle behind the appointment of personnel to advisory committees?

A I can only say --

MR. VIRTUE: My lord, surely that was a government appointed committee and I don't see how Mr. Shears can express any opinion as to the principle which guided the government.

MR.HUNTER: I asked him if he knew of that.

A The committee of course, was appointed by the government, but Dr. Coleman, in conversation with him, did express that the idea was to have a judge and a real estate person and a business man and also a

Japanese on the committees.

Q That doesn't seem to have been done in the Greater Vancouver committee, does it?

A In that particular case, Alderman Jones, I think, was considered to have such a wide knowledge of the city both as a business man and from a real estate point of view -- on that committee there was not the extra man anyway.

THE COMMISSIONER: I do not know that we need any evidence on this. I have lived in the Province long enough to know the type and character of the men who acted on those committees.

MR. HUNTER: I just wondered if there was some theory behind it, what they were trying to do, whether they were having a broad selection or what.

Q You were asked if any effort was made to replace Mr. Kimura and Mr. Yamaga, and you said no. Do you know why that was so?

A I am not sure whether the minutes reveal that, but I rather fancy it was decided not to record it. It is a fact that at a committee meeting Mr. Yamaga expressed to the committee that he felt certain pressure might be brought upon him by his own countrymen that he would resign. The letter he sent of course, didn't indicate that, and I know a copy of that letter was in the minutes. As regards why no one was put in their places I can only say here again -- this was by conversation with Dr. Coleman -- he advised me that Ottawa thought that in view of the Japanese resigning that no further appointments would be made as

possibly the same conditions would exist and he naturally thought if he would have resigned possibly another Japanese would do the same. There was the additional thing too and if the Japanese on these committees have to be evacuated they would be living a considerable from Vancouver and Westminster , so that from the point of view of convenience of calling meetings it wouldn't have been so very easy.

Q Sometime during your evidence you were asked a question as to what the significance of signing this J.P. form was . Did it indicate that you and the Japanese considered that the property described therein had been turned over to the Custodian, and my recollection is you answered yes to that statement. Now --

MR. McMASTER: Is he entitled to pursue that, my lord?

MR. HUNTER: I haven't asked my question yet, my lord.

THE COMMISSIONER: Put your question and I will rule on it.

MR. HUNTER: Q: Would you amplify that.

THE COMMISSIONER: Just a minute. Read the question.

(Question read).

MR. VIRTUE: The form is there. It is in writing, and contains a definite clause to that effect.

THE COMMISSIONER: I do not think it is going to be helpful to have any further statement on that matter from Mr. Shears. The form pretty well speaks for itself.

MR. HUNTER: Possibly I could get this information, my lord.

Q Have you any knowledge of why that clause was put

in the J.P. form?

THE COMMISSIONER: What clause do you refer to?

MR. HUNTER: There is a clause at the end of it.

MR. VIRTUE: It is included in the minutes of the Public Accounts Committee.

THE COMMISSONER: Is it page 86. (Reading).

MR. HUNTER: The clause says, "I undersigned . . . . Order -in-Council P.C. 1665."On the surface that might appear rather superfluous but I presume it was put in there for a purpose.

THE COMMISSIONER: Q: What was the purpose?

A When I answered yes to the question that was --

Q I am asking you now what was the purpose of including that clause that has just been read. Will you direct your mind to the question?

A The purpose behind it was this. We knew there were some 22,000 persons to be evacuated and we didn't know just when or in what order they were to be evacuated. It was thought it would be shorter than it was. The purpose of the form I will say was that the Japanese would complete that form and make that declaration in order that we might have knowledge of his affairs and be able to deal with them both before and after he had been evacuated. It was so to speak, to give us control over Japanese property while he was still in British Columbia in the protective area and hadn't been moved outside.

Q Just what do you mean by that,- that it was not to become operative until the Japanese was actually evacuated or was it to become operative immediately

it was signed? A. Generally speaking it was not to become operative until he was actually evacuated but in order to help the Custodian he was asked to sign the declaration. It was purely optional on the part of the Japanese to make the declaration and there were a considerable number of Japanese who did not complete the form prior to their evacuation.

Q If that w as the intention, how did you expect the Japanese to understand it so ?

A The purpose -- if I might put this in as an exhibit --

Q How did you expect the Japanese to understand that it wasn't to become operative until he was actually evacuated?

A Could I put this in as an exhibit.

Q I would like you to answer the question.

MR. HUNTER: Q: Please direct your mind to the question asked by his lordship, and try and answer it?

A From the advice that was given to them publicly in this notice they had an idea of the purpose they were asked to make the registration. They were encouraged to make this declaration in order that whether they were moved out tomorrow or six months time --

THE COMMISSIONER: Q: Mr. Shears, would you please direct your mind to the question I put to you. How did you expect the Japanese to understand that the document they had signed was not to become operative until they were actually evacuated?

A Because we so informed them in this advertisement.

Q What is found in the advertisement?

A This is found in the News Herald of the 11th of March. After setting out the P.C. 1665 and amendments thereto, it says "All such other property not disposed of . . . . . protect and administer the same."

Q That was published when?

A On the 11th of March, 1942 and it appeared in a large number of papers.

Q And had any J.P. forms been taken prior to that?

A Registration started two days after.

MR. McMASTER: I don't want to interrupt my learned friend, but I think your attention should be drawn to P.C. 1665.

THE COMMISSIONER: What part?

MR. McMASTER: Section 12. (Reading).

MR. HUNTER: My lord, that is why I wish to try to get a clear picture. Of course my learned friend is obviously going to maintain that by the signing of the J.P. form it falls within the category of those turned over to the Custodian by the owner, and will be my submission later that is not so.

THE COMMISSIONER: We have the factual background now.

MR. HUNTER: Q: You stated, Mr. Shears, that you had acted as Secretary to the Rural Advisory Committee. Would you care to amplify that or explain what your duties were? A. I didn't mean to imply that I was a secretary in the usual sense of the word. I was what you might call a recording

secretary. I took no part in the meeting beyond making my submissions to them for their consideration, and I was asked by the committee really to take notes and record their discussion. I did so and those minutes were always read at the subsequent meeting and were signed by the Chairman. Beyond that I had no contacts of a secretarial nature.

(ADVERTISEMENT IN VANCOUVER NEWS HERALD 11th MARCH, 1942, MARKED EXHIBIT GENERAL 41.)

Q Now, I think I am not being unfair when I state that it was implied by Mr. Virtue that the Advisory Committee was set up for the purpose of approving of the V.L.A. deal . Was this your idea?

A No. I would definitely say that was not my opinion at all. It was my understanding that it was the general policy of the government to set up the advisory committees. There was no doubt that the policy of liquidation was contemplated and this committee's terms of reference included many lands outside the V.L.A., and in addition to that there is the fact that two committees were set up precisely at the same time and the other committee have no reference to even agricultural lands. So it was not my opinion ever that they were set up for any specific purpose such as indicated. It is true that the first matter brought to their attention was the offer which was received from the Director of Veterans Land Act. which they dealt with before dealing with any other matters in regard to liquidation, except I believe there were one or two considered before then.

Q Are you able to say why the rule advisory committee accepted the Soldiers' Settlement Board appraisals as a fair basis for sale?

A They did refer to them as qualified appraisors and they knew that the Soldiers' Settlement Board had appraised property on behalf of various government departments. The Soldiers' Settlement Board had also been called in on other occasions even by the Custodian to value properties, but not Japanese properties, and I think it was on the basis of the qualifications of the Board that they gave great weight to the valuations which were before them.

THE COMMISSIONER: Q; For what reason do you say the advisory boards were set up?

A They were set up in view of a policy of liquidation to advise the Custodian as to the best methods of sale at time of sale; in fact anything which in their judgment would produce the liquidation in its best manner. There was no suggestion at any time as to when the properties should be made available for sale, and as the evidence indicated there were a large number of properties that were withheld even from public offering until a considerable time after the committee had been set up.

MR. HUNTER: I am not sure whether the terms of reference of the advisory committees were filed, but they were set out in the Greater Vancouver minute book, I remember seeing them. These appointments were made by the Secretary of State and in the appointments the terms of reference were laid down for their

duties, my lord.

THE COMMISSIONER: Is that in one of the documents filed as an exhibit here?

THE WITNESS: It has not been filed. I am sure of that, sir.

MR. McMASTER: I remember the witness referring to them sometime in his evidence.

THE COMMISSIONER. On these matters being raised by counsel now on re-examination you will be free to further cross-examine if you wish to.

THE WITNESS: This is from the minutes. It might be well for me to give you a copy later.

THE COMMISSIONER: All right. I direct that an extract from the minutes found on pages 5 and 6 shall be copied and filed as Exhibit 42.

MR. HUNTER: I have a copy here, as a matter of fact.

THE COMMISSIONER: The purpose of the Advisory Committee is expressed here as follows: (Reading).

(EXTRACT RE ADVISORY COMMITTEES MARKED EXHIBIT GENERAL 42)

MR. HUNTER: Q: Now, Mr. Shears, during the cross-examination there was read from the minutes of the Rural Advisory Committee, something to this effect, that Mr. McPherson had stated that the appraisals were made from the point of view of the appraisers purshasing, or their employers purchasing that land; in other words it was made from the point of view of the purchasers.

MR McM ASTER: My lord, I think my learned friend ought

to refer to the exact minutes rather than paraphrase it.

THE COMMISSIONER: Have you got it, Mr. Hunter?

MR. VIRTUE: If it will help my friend I have in my notes : minutes of first meeting page 13 at the foot of the page.

THE COMMISSIONER: Just read the extract again Mr. Shears, and then counsel can put the question.

THE WITNESS: "As to the method of v aluing the property, ... and not vendors".

MR. HUNTER: Q: Are you in a position to say whether that was a decisive factor in the committee recommending acceptance of the V.L.A. offer?

MR. McMASTER: My lord.

THE COMMISSIONER: What is your objection.

MR. McMASTER: I don't see how the witness can interpret the minds of the committee.

MR. HUNTER: They may have discussed it.

THE COMMISSIONERS: Well, put the question on thebasis of discussion.

MR. VIRTUE: I want to object to that for this reason, that my learned friend is now asking this witness in effect to contradict what is official written into the minutes as to what occurred.

THE COMMISSIONER: What is a matter of weight. I will allow the question.

MR. HUNTER: Q: Was there any discussion as to the minutes or value of Mr. McPherson's statement?

THE COMMISSIONER: I think the question should be put on this footing: Was there any discussion in the committee as to the way in which the Soldiers'

Settlement Board representatives had made their appraisals.

MR. HUNTER: Very good, my lord.

Q You have heard the question, Mr. Shears?

A Yes.

Q Was there any discussion at that time?

A In reference to the offer being for Veterans, there was a discussion and I will say that that factor didn't have any bearing upon the price acceptance but did have quite a bearing on whether the committee would recommend the sale of these properties with the advertisements. That was certainly in the case of Mr. McKenzie, because at the start, as I think was brought out previously, he suggested they should be advertised, but later in view of the fact they were for veterans --

THE COMMISSIONER: Q: Mr. Shears, you get away from the question constantly. The implications in Mr. McPherson's quoted statedment to the dommittee is that the Soldiers' Settlement Board appraisers' opinions were loaded in favor of the veteran and against the Japanese owner. Was that feature discussed in the committee?

A I don't recall it being enlarged upon, sir.

MR. HUNTER:Q:The question of the 17 spot appraisals has been discussed at considerable length, Mr. Shears. Can you say how long it took those three men from the Rural Advisory Committee to make these appraisals?

A That is indicated in the minutes. It was the minutes

of the 19th, which was a Wednesday, and they reported back on the following Monday, the 24th May,1942.

Q That is they had Thursday, Friday, Saturday and Sunday? A. That is the interval between.

Q Do you know which days they actually appraised?

A I have no idea, no.

Q Was Mr. Yamaga's property one of the properties they inspected? A. No, that was not on the list. Reference was made to Mr. Yamaga's property.

MR. McMASTER: I didn't object to anything more than the answer to the question, unless he has some explanation to the answer.

THE COMMISSIONER: I would like you to confine yourself as to answering the question as counsel puts it. If there is any explanation you can give it.

A Mr. Yamaga's property was not among those they went out to appraise.

MR. HUNTER: Q: Are you able to say whether the Rural Advisory Committee was in complete agreement in recommending acceptance of this offer of the V.L.A.?

A Yes, they were very definitely in agreement. As you can tell by the minutes there were certain discussion previous but they were all in agreement. At the next meeting of that Advisory Committee, after the minutes had been read Judge Whiteside said in view of the importance and size of the deal he suggested all the members of the committee should sign those minutes, which they did.

Q That is not the usual thing?

A No. On every other occasion Judge Whiteside or the Chairman was the only one who signed.

Q At some point you were asked whether the majority of these Japanese lands were productive and you answered yes.

THE COMMISSIONER: I think he did except the bushland.

MR. HUNTER: Q: Except the bushland?

A I exempted the bushland. I can state I knew some 600 of these properties had been under lease, and that to that extent they were productive. I didn't mean to imply that all the lands -- I think there was something like 10,000 acres -- were in production, because as appeared in the evidence in individual cases many of these farms only had a portion under cultivation, and there were a certain number of properties that were entirely bushland.

Q You were asked by counsel for the Japanese and by his lordship, whether you considered the difference between the D.L.A. appraisals and the sale price of properties sold in 1944 and 1945 was too great to be explained by an increase in market values, and you stated you thought it was too great to be explained by just the increase. Now are you ina position to say what else would account for the increase or for the difference between the appraisals and the sale prices in 1944 and 1945?

A From the experience I have gained in the selling of other properties at this time I didn't think that the spread could be entirely taken up by the rise

in market prices . When I saw the appraisals for the first time some few months ago and studied them as to the apparent care which was taken in viewing these properties and describing all the buildings on them, it did appear to me that it was a careful appraisal; it was not done in a haphazard way.

THE COMMISSIONER: That is something I have got to pass upon. I do not think you can testify to it. It is purely your opinion.

A Yes, it was simply my conclusion that the appraisers must have been conservative, and they were viewing them as a farm proposition whereas numbers of these properties might have a market value apart from just a farm proposition, and it was because of that, when they advertised some of these properties, they got considerably higher prices, having those three factors in mind.

MR. HUNTER: Q; That is just really a conclusion you draw from the work that went through your office -- more opinion than knowledge?

A That's all I can say.

THE COMMISSIONER: Do counsel desire to renew their cross-examination on any of these points Mr. Hunter has brought up?

MR. VIRTUE: I want to ask a couple of questions, my lord.

THE COMMISSIONER: Mr. McMaster, you are leading. You will get the first opportunity.

RE-CROSS EXAMINATION BY MR. McMASTER:

Q Referring to the 17 properties that the Committee

had checked by the sub-committee, was there any suggestion made by the Rural Committee to the Soldiers' Settlement Board that they might check up on their valuations of those 17 properties and see why they were so far below the sub-committees valuations? A. At that time?

Q At that time, yes.

A No.

Q At any time subsequently?

A I am sorry. Would you put your question once again.

Q Was there any suggestion made by the committee to the Soldiers' Settlement Board or any of its representatives that they, the Soldiers' Settlement Board might check up on those 17 parcels and see why there was such a discrepancy between their appraisal and the sub-committee?

A No, that was not done.

Q At that time or at any time?

A Not at that time and I am not sure whether it has been done at any time since. I have in mind that the Soldiers' Settlement Board appraisals are in some cases reviewing properties which they previously valued.

THE COMMISSIONER: Q: The question is limited to a direction or a request by the Advisory Committee?

A Oh definitely no.

RE-CROSS EXAMINATION BY MR. VIRTUE:

Mr: Mr. Shears, is it clear, that in any event your hands as Custodian were tied with regard to the sales of

these properties until after thelst January,1944.

THE COMMISSIONER: I take it your question relates to the statement that Mr. Shears made that he received instructions sometime in January to proceed with the sale of farm land.

MR. VIRTUE: Yes.

MR. HUNTER: 1943, wasn't it?

MR. VIRTUE: No, January 1944.

Q Under the Orders-in-Council which had been passed, I think you put it this way in your former evidence, that you were out of the picture?

A That was in 1942.

Q You were out of the picture, if you please?

THE COMMISSIONER: This is not argument. The witness says it was 1942.

MR. VIRTUE: Q: Will you look up your Order-in-Council P.C.469 to make sure of that?

MR. HUNTER: The 19th January, 1943.

THE WITNESS: But we were out of the picture before that. The Order-in-Council previous to that, that is when we were out of the picture.

MR. VIRTUE: Q; Look up your minute of January 13th,1944?

THE COMMISSIONER: Q; What is in your letter?

A A letter dated December 18th from Mr. Barnett, (Reading).

THE COMMISSIONER: This cannot be the reference you wish.

MR. HUNTER: I don't wish to be technical. I am quite willing for Mr. Virtue to go on, but objection was taken to my re-examination that it didn't pertain to cross-examination.

THE COMMISSIONER: This is introducing something quite new. I am giving him a lot of latitude.

MR. VIRTUE: I won't press that question because the evidence is already in that they were out of the picture during that whole period.

THE COMMISSIONER: That can be referred to in argument.

(Witness aside)

THE COMMISSIONER: I understand from Mr. Hunter that he has no witness available to go on this afternoon, so we will adjourn until Monday morning at ten o'clock.

(PROCEEDINGS ADJOURNED UNTIL SEPTEMBER 27th, 1948 AT 10.00 a.m.)

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

Deputy Official Stenographer