

Corr. Nov-Dec 1948

2-9

VIRTUE, RUSSELL & MORGAN

BARRISTERS, SOLICITORS
AND NOTARIES PUBLIC

McFARLAND BUILDING, OPPOSITE COURT HOUSE

LETHBRIDGE, ALBERTA

A. GLADSTONE VIRTUE, M.C.K.C.
WILLIAM STAFFORD RUSSELL, B.A., LL.B.
FREDERICK JOHN MORGAN, B.A., LL.B.

31st October, 1949

PLEASE REFER TO FILE NO. 3201

NOV 1 1949

R.J. McMASTER, ESQ.,
c/o Messrs. Campbell, Brazier, Fisher and
McMaster,
Barristers and Solicitors,
Royal Bank Building,
675 West Hastings Street,
VANCOUVER, B.C.

Dear Mr. McMaster: RE: JAPANESE PROPERTY CLAIMS
COMMISSION.

Upon returning to the City from Ottawa and Toronto, Saturday night, I found your letter of October 28th.

While In Ottawa I had a very satisfactory interview with the Honourable Mr. Carson, Minister of Justice, and I am inclined to think he will take a more sympathetic view of the Japanese property claims as a result of my visit. I shall report to you fully in this connection when next I see you.

I also had a conference with Mr. Brewin in Toronto, and we discussed at some length the position taken by the Custodian and Mr. Justice Bird with reference to the settlements already arranged between Government Counsel and Counsel for the Japanese Canadians.

I believe Mr. Brewin intended to telephone you and state our position, so that I need not go into that at length. Suffice it to say that both Mr. Brewin and the writer are prepared to resist to the limit any attempt to go back of settlements already made, and, if necessary, we are prepared to

Campbell, Brazier, Fisher, McMaster & Johnson
Barristers and Solicitors

TELEPHONE PACIFIC 9164
CABLE ADDRESS: "CAMBRA"

A. T. R. CAMPBELL
C. W. BRAZIER
A. W. FISHER
R. J. MCMASTER
A. J. F. JOHNSON

THE ROYAL BANK BUILDING
675 WEST HASTINGS STREET
VANCOUVER, B.C.

OUR FILE NO.

November 2nd, 1949.

NOV 4 1949

Andrew Brewin, K.C.,
Barrister etc.,
Sterling Tower Building,
TORONTO 1, Ont.

Dear Andy:

All together now, we have reviewed about 140 of the settlements with the Judge. There were only three of these which he interfered with and in one case he disallowed a special award of \$150.00. However, in that case this morning, I persuaded him to re-establish the special award. In another case he disallowed the sum of \$9.00 being part of a special award as the special award would have placed the total recovery in excess of his claim by that amount. In a third case where a special award of \$910.00 was agreed to by Counsel with respect to the sale of City property, the Counsel had agreed that we would also recover the expenses relating to the sale. As the re-sale was all of ten months after the Custodian's sale and there was no evidence as to whether or not improvements had been made to the premises after the Custodian's sale, the Judge allowed the special award but refused to allow the rebate of the expenses.

In all of the other cases, he has approved of the settlements. There are some 40 odd cases which have been set aside for review pending the return of Jim MacDonald who made these settlements with me. A few of these may be hard to sell to the Judge. In the main I do not think the review by him is going to be drastic.

In dealing with further settlements however, I think I shall be inclined to take more cases to him as special cases rather than have him review settlements.

Yours truly,

CAMPBELL BRAZIER FISHER MCMASTER & JOHNSON

Per: *Bob*

RJM/ec

Campbell, Brazier, Fisher, McMaster & Johnson
Barristers and Solicitors

A. T. R. CAMPBELL
C. W. BRAZIER
A. W. FISHER
R. J. McMASTER
A. J. F. JOHNSON

THE ROYAL BANK BUILDING
675 WEST HASTINGS STREET
VANCOUVER, B.C.

OUR FILE NO. 2087

November 5, 1949.

Mr. Andrew Brewin, K.C.,
Barrister, etc.,
Sterling Tower Building,
Toronto 1, Ontario.

Dear Andy:

Re: Mrs. S. Mochizuki.

On one of the occasions when you were in Vancouver you discussed with the writer the circumstances of the case of a Japanese client of yours who we understood had certain Japanese Imperial Government Bonds either situate at a bank in Seattle, Washington, or payable there. I may not have the facts exactly clear in my mind. You mentioned at the time that you intended taking the matter up with the Department of the Secretary of State with a view to a partial realization at least of these assets. My recollection is that on a subsequent occasion you indicated to me that you had met with some degree of success.

Our client above named is possessed of certain Japanese Imperial Government Bonds which purport to be payable in United States funds and also certain other Imperial Japanese Government Bonds which purport to be payable in Sterling. If this situation is in any way comparable with the situation you had to deal with we would very much appreciate learning from you the procedure which you undertook in your case referred to above.

With kind personal regards from the writer,

Yours truly,

CAMPBELL BRAZIER FISHER McMASTER & JOHNSON

Per: Bob

RJMcM: CYP

Campbell Brazier, Fisher, McMaster & Johnson
Barristers and Solicitors

A. T. R. CAMPBELL
C. W. BRAZIER
A. W. FISHER
R. J. MCMASTER
A. J. F. JOHNSON

OUR FILE NO.

THE ROYAL BANK BUILDING
675 WEST HASTINGS STREET
VANCOUVER, B.C.

NOV. 11 1949

November 9th, 1949.

Andrew Brewin, Esq., K.C.,
Sterling Tower,
TORONTO 1, Ontario.

Dear Andy:

Re: Takahashi and Togo Cleaners Ltd.,
1089.

As we indicated to you in the summer, we employed the services of Pemberton, Holmes Ltd., to review the sale of Togo Cleaners property and the Takahashi house with a view to ascertaining whether these should be made into special cases. Unfortunately, Major Holmes of that firm had to go away for a period of six months and they referred the matter to the British Columbia Land & Investment Agency Ltd. It is the opinion of that Company that fair market value was attained. With regard to the cleaning property on Yates Street, we had been informed that the adjacent lot had been purchased for purposes of a theatre for \$40,000.00 in 1941. However, from a search of the land records and examination of the premises, our appraiser advises us that this information is incorrect. Togo Cleaners owned the east half of Lot 572 on which was a one-story brick building. The land in 1941 was assessed at \$13,080.00 and the improvements at \$2,170.00. The sale which actually took place was of the west half of Lot 572 together with Lot 108.

The respective assessments on these two properties in 1941 were \$12,900.00 land, \$9,500.00 in improvements, and \$7,000.00 land and \$14,400.00 improvements. These two properties sold in 1941 for \$27,500.00. Our appraiser has also supplied us with information of other sales in the vicinity of the Togo Cleaners property. From the information which he has given us as well as on the basis of his advice we are of the opinion that there would be little to be gained by trying to make a special case and in fact we might lose the 10% covering property outside of Vancouver.

Mr. Brewin:

November 9th, 1949.

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Accordingly, I propose to endeavour to settle these matters applying the usual formula.

I am reporting this matter to you particularly in view of the fact that Takahashi lives near you and undoubtedly will require some explanation from you.

Yours truly,

CAMPBELL BRAZIER FISHER McMASTER & JOHNSON,

Per:

Bob

McM:McC

BARRISTERS, SOLICITORS
AND NOTARIES PUBLIC

LETHBRIDGE, ALBERTA

4th November, 1949

PLEASE REFER TO FILE NO.

NOV 7 1949

Copy to Mr. Brewin for his information.

QUIMET, LEFEBVRE & DESLAURIERS
BARRISTERS & SOLICITORS

ROGER QUIMET, K. C.
PAUL LEFEBVRE, B.A., LL.B.
JEAN H. DESLAURIERS, B.A., LL.B.

MARQUETTE 2228-9*
LA SAUVEGARDE BUILDING
152 NOTRE DAME ST., EAST
SUITE 52-53-54

MONTREAL 1, November 9, 1949.

NOV 10 1949

Messrs. Cameron, Weldon & Brewin,
Sterling Tower,
TORONTO 1, Ont.

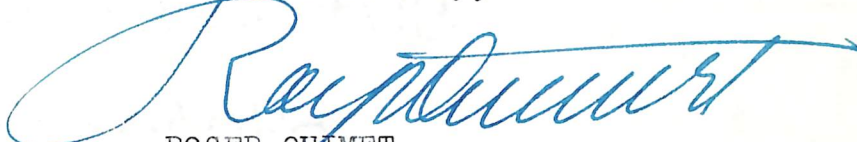
re: JAPANESE CLAIMS COMMISSION.
MY FILE: H-301-A.

Dear Sirs:-

Further to your letter of May 28th,
1949, to which I am sorry I could not reply at
an early date.

Will you kindly find enclosed herein
my account for legal services in the above matter.

Yours faithfully,


ROGER QUIMET.

RO/JG
doc. encl.

CAMPBELL BRAZIER FISHER McMASTER & JOHNSON

November 14th, 1949.

Mrs. Ito Hamagaki,
c/o Mr. B. Beare,
93 Dunvegan Rd.,
Toronto, Ontario.

Dear Mrs. Hamagaki:

Re: Case 1062

Mr. Brewin has forwarded to us your letter dated November 10th, 1949 and enclosures.

We will do the utmost that we can to obtain evidence to substantiate your claim that you received a bona fide offer for the purchase of your property at the figure of \$10,000.00. However, we must warn you that it will be very difficult, if in fact impossible, to obtain this corroboration. In the absence of such corroboration, we are extremely doubtful whether we can make any substantial recovery on your claim. If we are unable to obtain corroboration, we will in any event urge upon the Commissioner that he should accept your evidence concerning the same and make at least some award which will relieve in part the burden of your loss.

Yours truly,

CAMPBELL BRAZIER FISHER McMASTER & JOHNSON

Per: 

McM: McC

cc. Mr. Brewin:

Mr. Brown
George Tanaka,
Hotel Georgia,
Van., B.C.

2840 Robinson Street,
Regina, Sask.,
November 14th, 1949.

Dear George:

It seems to us that the memo covers the ground very well and ought to be presentable as a very good case. The following points, put down at random, have occurred to us however, and I am listing them for what they are worth.

1. Due emphasis upon the phrase "for protective purposes only" contained in the order-in-council requiring evacuees to move and to register their property with the Custodian.
2. The importance of the interval of time elapsing between the time when an owner left physical possession of his property, whether under actual order of the BCSC or not, and the time the Custodian himself assumed actual physical possession. George's (Tanaka) phrase, I think, is that "the Custodian shall have been deemed to be in possession" from such and such a time.
3. I am wondering what approach can be used to suggest that "willing buyer-willing seller" formula was not used and that justice is dependent upon the employment of that formula. Perhaps it can be suggested that if the Government had not acted in an arbitrary manner, but had required the Custodian to secure permission to sell and to negotiate sales on that basis, better prices would actually have been secured. I don't know how this can be worked in; perhaps it has to depend upon a purely moral argument.
4. It is clear that any independent arrangements for disposal of property were arrangements arrived at "under duress" and that the final settlement should take account of that fact.
5. Provision for legal fees and expenses?
6. I presume the question of an adjustment agency includes appeals against the awards granted by the Commissioner, plus any further claims which we feel the Government should allow. Perhaps the ~~present~~ proposals ought to include suggestions for continuing machinery, including powers of investigation and recommendation.
7. Fishing vessels plus damages incurred in impounding process.
8. The emotional clincher is that while the amount involved may be small, the fair name of the Dominion is involved, as well as a large number of citizens with a justifiable and rankling sense of resentment and bitterness.
9. I doubt very strongly if the JCCA can propose definite percentage figures in the brief. Why 5% and not 10%, etc. Can we as an organization assume this responsibility?
10. Although it will be wise to have the brief prepared in draft, the final form will necessarily await the actual wording of the Commissioner's report, since references thereto will be essential. This does pose a problem for any public campaign to which you should give further thought.

Sincerely,

Tom Shoyama.

November 17, 1947.

DRAFT

BRIEF

After Pearl Harbour in December, 1941, it was deemed expedient to evacuate all persons of the Japanese race from the Pacific Coast of Canada. It was considered to be essential to carry out this task with the least possible delay. Some 22,000 of such persons were evacuated within 6 months. Being an emergency measure emergency methods had to be employed.

The B. C. Security Commission was vested with the responsibility of the physical removal of this mass of persons. The immensity of the task and the haste required left little room for the protection of individual rights and humanitarian considerations.

To the Secretary of State, acting as Custodian, fell the onerous and impossible task of protecting the personal chattels and real property of the evacuated population from vandalism, depreciation and destruction. The task was impossible by reason of: (a) the necessity to hurriedly organize a large staff;

(b) the removal on short notice of families, particularly from remote and isolated areas, without adequate provision for recording or protecting their property;

(c) the strong anti-Japanese attitude in the community which lowered the moral barriers to condone theft, destruction and exploitation in acquiring assets;

(d) the panic of uncertainty amongst the evacuees which influenced them to overlook the taking of many precautions for the protection of their property which might have assisted in its preservation and;

(e) all the evils of regimentation.

Prior to evacuation these persons were allowed to dispose of their own assets. In certain cases they were encouraged by the Custodian so to do. However, being under notice to evacuate, many improvident sales were made, and all such sales suffered the effects of liquidation rather than free sales in a normal market. Heavy losses were sustained. That exploitation was rampant was recognized by the

Government in two Orders-in-Council. P.C. _____ was passed in 1942, and recognized the need to protect the persons to be evacuated from duress and exploitation. However this order-in-council only applied to the sale and leasing of farm lands. P. C. _____ creating the Japanese Fishing Vessels Disposal Committee, recognized the need for protection from duress in the sale of vessels. However, other types of property often were sold at heavy sacrifices.

Once evacuated, all property of evacuees vested in the Custodian except cash and securities and until August, 1942, vessels. At first it was the intention of the Government to preserve the property of these hapless people. In good faith and in reliance upon this frequently stated policy of the Government and the Custodian, many persons left their properties in his care. In this expectation, many persons after leaving their belongings, if they had time, did not make full inventories. In the same expectation, the Custodian's field men often made only general inventories when they were able to get around to the property. They, too, worked under haste and pressure.

After a year's experience with the impossible task of protecting all this property, the Government changed its policy to one of "orderly liquidation". In the meantime vandalism, theft and depreciation had had their toll. Had this policy been established at the time of evacuation and had time permitted, the Japanese could have made full inventories and have obtained valuations of their property. However orderly the liquidation of all of the property of 22,000 people to the last kitchen chair may be, such a sale it is submitted must remain a liquidation. The essential difference in price between a liquidation and voluntary sale is universal knowledge. Such sales are the happy hunting ground of bargain seekers, dealers and speculators.

As indicated above, vessels at first did not vest in the Custodian. It was decided at the outset to sell these as rapidly as possible to avoid depreciation

and to get them into use in the essential fishing industry. That the boats were damaged in their collection and early detention by the navy has been recognized by the Government. However, compensation for damage and missing essential gear was paid to the purchaser. The market was flooded by the dumping of these boats in a (7) month period. The unsold boats vested in the Custodian in August, 1942.

Recognizing that injustices had been done, the Government in mid-year, 1946, after study of the problem by the Public Accounts Committee of the House of Commons, set up a Commission under the Public Inquiries Act to determine the losses suffered and to recommend just and equitable awards therefor. The operative portion of the Orders-in-Council, P.C. _____ and P.C. _____

_____ read as follows as amended:

"....."

Mr. Justice Bird, a Judge of the British Columbia Court of Appeal was appointed Commissioner. The Commission held hearings and discussions for over two years and the Commissioner has reported his findings.

With respect to the Bird Commission and the awards recommended by the Commissioner, having regard to the immensity and difficulty of the problem, we believe the vast majority of the persons of Japanese ancestry in Canada regard these awards as a (fair) measure of rough justice within the limited terms of reference.

We respectfully submit, however, that the people of Canada will fall far short of providing "reasonable and just compensation" to evacuees if that compensation is limited to the results of the enquiry. This submission is based upon the following considerations:

November 17, 1949.

Messrs. Campbell, Brazier, Fisher & McMaster,
Barristers, Solicitors,
675 West Hastings Street,
Vancouver, B.C.

Attention Mr. R. J. McMaster.

Re: Your File 2087
Mrs. S. Mochizuki

Dear Bob:

In reply to your letter of November 5th
I do not think the case in which I am interested will
be of any help to you.

In the case I was interested in Mr. Kagetsu
owed roughly the sum of \$25,000 to the Yokahoma Specie
Bank Seattle on a note. The bank held as collateral, yen
which at the exchange value before the war was roughly
equivalent to this figure.

The Custodian placed a sum equivalent to the
debt, in a suspense account. The American Custodian has
taken over the affairs of the Yokahoma Specie Bank and de-
manded payment recently, and we resisted the payment on the
ground that it would be inequitable for the Canadian Custod-
ian to have to pay a debt in respect to which the collateral
has ceased to have any value. We also argued that action on
the note is barred by the Statute of Limitations.

Our case raises very nice points as to the effect
of the Custodial Agreement between the Canadian and American
Custodian. There has as yet been no definite decision.

I rather assume that this situation is not in any
way comparable with the problem which you have. If it is, I
would be glad to go further into detail.

Yours sincerely,

FAB:HC



Campbell, Brazier, Fisher, McMaster & Johnson
Barristers and Solicitors

A. T. R. CAMPBELL
C. W. BRAZIER
A. W. FISHER
R. J. MCMASTER
A. J. F. JOHNSON

OUR FILE NO.

THE ROYAL BANK BUILDING
675 WEST HASTINGS STREET
VANCOUVER, B.C.

November 23rd, 1949.

Andrew Brewin, Esq., K.C.,
Barrister, etc.,
Sterling Tower,
TORONTO 1, Ontario.

REC-30
NOV 25 1949
CAMERON, WILSON BREWIN &
MCALLUM.

Dear Andy:

You will recall that Virtue made certain representations concerning Steveston properties at the time of the alleged "settlement" and in view of Virtue's cases he gave him awards higher than the general award on Steveston property. Apparently Drew Pratt had a case in Steveston also in which he called evidence and in that case Mr. Justice Bird gave him a substantial award. He sent me a copy of this I would imagine in error and along with it he sent a memorandum dealing with Steveston properties generally, a copy of which I now enclose herewith. You will notice that he bases his notes on the Diggon-Hibben vs. Regem case recently decided by the Supreme Court of Canada on an appeal from the Exchequer Court and not yet reported. The decision as I understand it although I have not had an opportunity to study the finding of the Supreme Court of Canada is that Fair Market Value should be determined not from the standpoint of what a prudent purchaser would be willing to pay for the property in a free market but from the standpoint of what a prudent owner would be willing to pay to prevent his property from being taken away from him and you will observe that in his memorandum with regard to Steveston properties Mr. Justice Bird allegedly followed this approach. While he says in his memorandum that this is the approach which he has used on the Steveston property it is certainly not an approach which he used in the general formula in relation to Steveston property and it is my intention to re-open the issue with him not only with regard to Steveston but with regard to other areas which in fact became ghost towns by reason of the evacuation of the Japanese.

Mr. Brewin:

November 23rd, 1949.

- 2 -

It is too bad that the Supreme Court of Canada decision had not been made at the time you presented your argument on Fair Market Value because you will observe from Mr. Justice Bird's reasoning in this memorandum that he is in fact now accepting the principle which you urged upon him that while the "property sold in the period of 1943 - 1944 may have been sold at the best prices then obtainable in view of the depressed conditions, nevertheless, the prices realized cannot be said to have represented the Fair Market in normal circumstances."

I would be pleased to have any suggestions which you have to make concerning the matter. It has crossed my mind that unless Bird changes his tune on the over-all settlement that we will have a very forceful argument with the Government to increase the award by the Commissioner by virtue of the fact that his finding on Fair Market Value was made before the Diggon-Hibben case was decided by the Supreme Court of Canada and the over-all settlement was based upon his interpretation of Fair Market Value without the benefit of that decision.

Yours truly,

CAMPBELL BRAZIER FISHER McMASTER & JOHNSON,

Per: Bol

McM: McC

encl.

November 28, 1949.

Mr. R. J. McMaster,
c/o Messrs. Campbell, Brazier, Fisher & McMaster,
Barristers,
675 West Hastings Street,
Vancouver, B.C.

Dear Bob:

I have your letter of November 23rd and have read with some interest the memorandum by Mr. Justice Bird on the Diggon-Hibben vs Regem case. I have not seen these reasons for Judgment, but the memorandum seems to indicate that the Supreme Court of Canada have clearly recognized the principle for which we contended.

It certainly would appear to me that you would be justified in having him reconsider other Steveston property on the basis of this decision. I presume that you have a record of his actual decision on our argument. Personally I do not recall ever seeing a report of any actual decision that he made in respect to the points raised in our original argument.

I suppose you will be in a position to get a copy of this Judgment. I hope that you will be able to take advantage of this decision. It seems to me that you should consider carefully to what categories any change in the approach is required by reason of the principles set out in this decision. It may be that you might get him to consider a number of the Steveston properties in other areas which became ghost towns as a series of special cases to be dealt with on this basis. The memorandum in this case would certainly seem to apply to all Steveston properties. You will know better than I do how wide the application of this decision can be extended.

I would be very much interested to hear from you how far you have proceeded to date, and how you have got along with the Judge's review in special cases.

At one time I think you were optimistic that the hearings might be completed by the end of the year. Does this prospect still hold good?

JWM.

Campbell, Brazier, Fisher, McMaster & Johnson
Barristers and Solicitors

A. T. R. CAMPBELL
C. W. BRAZIER
A. W. FISHER
R. J. MCMASTER
A. J. F. JOHNSON

THE ROYAL BANK BUILDING
675 WEST HASTINGS STREET
VANCOUVER, B.C.

OUR FILE NO.

December 1st, 1949.

Andrew Brewin, Esq., K. C.,
Sterling Tower,
Toronto 1, Ontario.

Dear Andy:

I have for acknowledgment receipt of your letter of the 28th ultimo. At the present time I am trying to extract from our files the necessary information with respect to Steveston and other allied properties before taking the matter up with the Judge as to the application of the Diggon Hibben vs. Regem case.

It seems to me another place where the principle in that case would well apply is with regard to the sale of boats where the Judge found that they sold at their fair market value and gave us recovery on the basis of depreciation and cost. The Crown's own witness in this case clearly admitted that the market had been depressed by the flooding of the same by virtue of sales of Japanese vessels through the J.F.V.D.C.

I certainly wish this decision had been available at an earlier date because I think you can readily realize that it is going to be difficult at this late stage of the proceedings to get the Commissioner to make very many radical amendments to the settlement and I shall have to be careful not to overdo it. After I have gotten my material together and taken the matter up with him I will report to you.

I was under the impression that you had received from the Commissioner a copy of his rulings with regard to Fair Market Value. I recall that I received a copy allegedly before the Reasons were officially released and I either sent a copy to you or understood that Mr. Watson was sending a copy. I will try to locate a copy and forward it to you in the near future.

With respect to the Judge's review in cases where the awards have exceeded the Custodian's estimate

Mr. Brewin:

December 1st, 1949.

- 2 -

by \$100 or more, we went through a further 20 or 30 cases the other day. The only casualty I suffered was on one property where we had agreed on the theoretical ratio higher than the general average in the case and applied it to a large number of items of used clothing, tools and kitchenware which were lost. The recovery on the basis settled was about \$500.00 and the Judge cut us down \$250.00. On the merits of the particular case I really had no complaint although I registered a complaint with him on the basis that what you lose on the roundabouts you should be able to pick up on the swings. I have urged Braidwood to try and persuade the Judge that having regard to the net result of his review of some 180 cases to date (being a reduction of about \$600 in all) he should abandon the idea of reviewing the remainder of the cases where the award is in excess of \$100.00 of the Custodian's estimate.

I have not any exact idea of how many further cases come in this category but my guess would be that it must be three or four hundred at the very least. The length of time it takes to review the cases before him would not make this an onerous task but you can appreciate that it involves a number of days' work on the part of Crown Counsel and myself in refreshing our memories as to the basis on which the settlement was made and the devious reasons leading up to the "bargain".

Frankly, while the Judge's move is to protect himself from attacks subsequently by Shears and possibly with the hope of placating Shears, from the results of the cases we have already reviewed, Shears has arrived at the obvious conclusion that the Judge does not intend to seriously upset the settlements. Consequently, Shears is getting hotter under the collar every day and there is not the slightest doubt that he will provide his own Department with detailed reports on many cases in which he will allege that his Department has been "robbed".

Fortunately, for my sake, in the dealings I have to have with Shears he does not appear to blame me in the least but is obviously of the opinion that Crown Counsel are not adequately protecting his Department.

While George was out here I endeavoured to give him some assistance with regard to the preparation of a

Mr. Brewin:

December 1st, 1949.

- 3 -

Brief to be presented to the Government after the Commissioner has made his report. I still have in my mind certain reservations with respect to the presentation of such a Brief although I can fully sympathize with the motivation therefor. I am highly skeptical that the Government will do nothing more than the Commissioner recommends. Having regard to the fact that the Secretary of State's Department will probably raise considerable fuss and quite possibly the Department of Veterans' Affairs likewise will do so about the Commissioner's findings and also having regard to the presence of Hunter in the Government who, I think, will be hopping mad at the increase over the alleged settlement of last Spring I do not see the Government going any farther than the Commissioner is prepared to go. The Commissioner has conveniently forgotten that Mr. Hunter took a trip to Ottawa last Spring when we were discussing settlement and that I was verbally assured that if the settlement was made in the manner indicated the Government would stand behind it. Unfortunately, that assurance was not obtained in writing or on the record. I find it hard to believe that the Government will not implement the Commissioner's recommendations but it seems to me the implementation may be delayed if too great a fuss is stirred up. However, you will be in a better position to examine the matter objectively than I am under the pressure of trying to get the Commission wound up.

Concerning the question as to whether or not the Commission will be completed by the end of the year, I think the Commissioner himself is still optimistic such will be the case. However, there are yet some 200 cases to be discussed. There is the question of his reviewing some 300 or 400 cases at least. The question of the manner of distribution of the award on D.V.L.A. purchases and the question of allowance for cost is still to be cleared up. My optimism of the summer time therefore is somewhat dampened that we will be able to complete the matter by the time Christmas Vacation rolls around although I think we can be assured that it will be completed some time in January. I believe the Commissioner intends to have most of his report written in advance and that the award sheets will be attached thereto so that once the awards have been completed there should not be too great a delay in his

Mr. Brewin:

December 1st, 1949.

-4-

making his report to the Government,

Yours truly,

CAMPBELL BRAZIER FISHER McMASTER & JOHNSON,

Per: Bale

McM:McC
AIRMAIL

December 12, 1949.

Mr. R. J. McMaster,
c/o Messrs. Campbell, Brazier, Fisher & McMaster,
675 West Hastings Street,
Vancouver, B.C.

Dear Bob:

Thank you for your long letter of December 1st. It is very interesting to me.

I share your scepticism about any practical results from the brief to the Government. One point on which I did think a strong argument could be made was that the award should carry the legal rate of interest from the date of sale, which would amount to a considerable increase.

I believe there is ample precedent for this, both in legal principle and in the justice of the case. At any rate if we make some such fuss, it may assist the Government in resisting any demands that the awards be scaled down.

In view of what Mr. Garson said to me in my interview with Mr. Varcoe and Mr. Garson, I do not think the Government could possibly give less than the Commissioner in fact awards. For them to listen to the complaints of Mr. Shears or Departmental Officials, would be in my mind ridiculous and would cause no end of trouble for them.

I do feel that as soon as you have completed the hearings you should endeavour to start the herculean task of preparing an account for your services. I have made arrangements to have all of the accounts submitted to the firm of Mason, Foulds, Davidson and Arnup here to see if they think there is any reason for having them taxed for the protection of the Committee, and I think it important that all our accounts be in and settled before the final awards are made.

With kindest regards.

Yours sincerely,

FAB:HC

FAB

December 12, 1949.

Mr. R. J. McMaster,
c/o Messrs. Campbell, Brazier, Fisher & McMaster,
675 West Hastings Street,
Vancouver, B.C.

Re: Takahashi and Togo Cleaners Ltd.,
1089

Dear Bob:

Thank you for your letter of December
9th in respect to this matter.

I am satisfied to leave the matter in
your judgment.

The Takahashis will be disappointed, but
it appears that the basis of their claim for considerably
higher values cannot be substantiated. I will certainly
assure them that everything possible is being done.

Yours sincerely,

FAB:HC

7/17

December 13, 1949.

Mr. R.J. McMaster,
c/o Messrs. Campbell, Brazier, Fisher & McMaster,
Barristers,
675 West Hastings Street,
Vancouver, B.C.

Re: Japanese Claims Commission
Claim Y. Nikaido
402 Robson Street,
Vancouver, B.C.

Dear Bob:

I have been requested by Mr. Nikaido who is one of the Toronto claimants, to write to you about the present status of his claim.

Mr. Nikaido was in touch with the Canadian Japanese Citizens' Association who wrote to you some time in or about the month of May of this year. They reported to Mr. Nikaido that you stated that a full report of the valuers had not yet been received.

Mr. Nikaido had a valuation of this property as of December 1943 from McCarthy and O'Shea Realty. The Custodian's sale price was \$4020.00.

I presume that this case has been treated as a special case, and I would be glad if you could give me any information that I may pass on to Mr. Nikaido.

Mr. Nikaido also points out the disparity between the assessed value which you will have on the file, and the price for which the property was sold.

Yours sincerely,

FAB:HC

P.S.--Mr. Nikaido's son is Mr. Sato Nikaido, a veteran in the last war, and Mr. Nikaido was asking if there was any chance of his son getting the property back. I told him I thought it was most improbable, however, I mention the matter to you in case by any chance such a thing were possible at this late date.

F.A.B.

FAB

Campbell, Brazier, Fisher, McMaster & Johnson
Barristers and Solicitors

A. T. R. CAMPBELL
C. W. BRAZIER
A. W. FISHER
R. J. MCMASTER
A. J. F. JOHNSON

RECEIVED

THE ROYAL BANK BUILDING
675 WEST HASTINGS STREET
VANCOUVER, B.C.

OUR FILE NO.

DEC 17 1949

CAMERON, WELDON, BREWIN &
McCALLUM.

December 14th, 1949.

Andrew Brewin, Esq., K. C.,
Sterling Tower,
Toronto 1,
Ontario.

Dear Andy:

Re: Y. Nikaido - Case 1033.

We have for acknowledgment receipt of your letter of December 13th.

Some time ago when I reported to the Japanese Canadian Citizens Association with respect to this matter I indicated to them that we considered the appraisal by McCarthy & O'Shea as on the high side but undertook that we would take the case as a special case to the Judge. Our own appraiser's indication of value on this property was not much more than the price realized.

I talked Macdonald into a settlement of \$750.00, being, as I recall, half way between the sale price and McCarthy & O'Shea's appraisal and close to assessed value. However, upon reviewing "settlements" this is one of the few cases that fell by the board. The Judge indicated that he would not go to more than \$500.00 and rather felt he was stretching it a bit at that point.

At the time I was a little provoked at his interfering with the settlement and indicated that I wanted the case re-opened and its present status is that I am free to call further evidence.

Since that time, however, I have talked to McCarthy who made the appraisal and checked up in the land registry on certain comparable sales to which he referred and find that the comparable sales took place some time after the sale by the Custodian in a higher market. Accordingly, I think if we call McCarthy he would be unable to substantiate his appraisal and I do not see any prospect of even getting the \$500.00 which the Judge was willing to give me at the time of our discussions if we do so.

Mr. Brewin:

December 14th, 1949.

- 2 -

Accordingly, I have placed it on the list for re-discussion with Mr. Macdonald. I think I will get him to agree to the \$500.00 increase which the Judge had indicated he was prepared to make. The next problem will be whether I can get the Judge to approve it. However, I am hopeful that I will be able to do so. Concerning any possibility of the claimant or his son having the property returned to them, this is absolutely impossible other than by their purchasing it by private purchase from the present owner.

Yours truly,

CAMPBELL BRAZIER FISHER McMASTER & JOHNSON,

Per: *R. J. McMaster*,

McM:McC

Cum A. Brazier, Fisher, McMaster & Johnson
Barristers and Solicitors

A. T. R. CAMPBELL
C. W. BRAZIER
A. W. FISHER
R. J. MCMASTER
A. J. F. JOHNSON

RECEIVED

DEC 27 1949

THE ROYAL BANK BUILDING
675 WEST HASTINGS STREET
VANCOUVER, B.C.

OUR FILE NO.

CAMERON, WELDON, BREWIN, &
McCALLUM

December 21st, 1949.

Andrew Brewin, Esq., K. C.,
Sterling Tower,
Toronto, Ontario.

Dear Andy:

Re: Japanese Property Claims Commission.

I came across a line of cases the other day with which you are probably familiar but in the event that you are not familiar with them, I refer to them hereunder:

Benham vs. Gambling, 1941 (1) AER, page 7
Hart v. Griffith-Jones, 1948 (2) A.E.R. page 729
Pash v. Registrar of Motor Vehicles, 1949 1 W.W.R.
page 225
Kowalchuk v. Wilks, 1948, 2 W.W.R. 1134 at 1138
Donoghue v. Magee and Barrou 1949 1 W.W.R. page 70

These cases relate to the recovery of damages arising out of various causes and in these cases the actions were brought some time after the cause of the damage arose. It is my understanding that in all of the judgments the Judges after arriving at the amount of damages allowed an additional amount having regard to the devaluation and the inflation of the pound or the dollar. I do not think that the terms of reference to Judge Bird would permit using this argument with him and in any event I doubt whether he would give effect to it. In any event, it might be a useful argument with Parliament when further representations are made concerning the matter of the awards.

We understand that in the Deep Bay case Norris has urged upon Bird that the claimant should receive interest on any award. From my informal conversations with Bird, I doubt whether he will accede to such. However, I recall that you have this proposal in mind when carrying on further discussions with the Government.

Mr. Brewin:

December 21st, 1949.

- 2 -

We have remaining to be "settled" approximately 150 to 160 cases. Some 70 or 80 of these are going to be hard ones but I am hopeful that we will complete this portion of the task by early in January. It remains to be seen whether the Judge is going to insist on reviewing the 300 or 400 remaining cases where the awards exceed the award indicated by the Custodian by \$100.00 or more. Upon reviewing my running inventory of the cases settled to date, it seems likely to me that our total award is going to exceed the original proposition by at least \$125,000 even allowing for the Judge whittling down some of the settlements so that the last eight months' work has not been wasted.

Recently after discussions with George Tanaka we have had Mr. Leckie do some work analyzing the gross claim value of claims by persons represented through our Committee. I do not yet have the total figures but most of the analytical work has been done and if we take into account the original payment by the Custodian plus the anticipated award in most cases the claimant will receive over 50% of the claim value of his ~~goods~~ *property*.

This sounds like a better picture and a more realistic one than the one which has generally been expected on claims of some five million dollars and a recovery of some \$800,000 or \$900,000.

Yours truly,

CAMPBELL BRAZIER FISHER McMASTER & JOHNSON,

Per: *Bob*

McM: McC

December 27, 1949.

Mr. R. J. McMaster,
c/o Messrs. Campbell, Brazier, Fisher & McMaster,
Barristers,
675 West Hastings Street,
Vancouver, B.C.

Dear Bob:

Thank you for your letter of December 21st in reference to cases dealing with additional damages through devaluation and inflation of the currency.

I do not think myself that it would be wise to press Mr. Justice Bird too strongly on the matter of interest. After all the terms of his commission may require him to find the difference between the actual sales price and the fair market value at the date of sale. The consequences of his decision seem to me to be for the Government. I believe very strong argument could be made for the allowance of interest to take care both of the loss by the claimants of the capital during the years in question and also the devaluation.

I am very much encouraged to hear from you of the degree of success you have had in increasing the claims.

I hope you will be able to have a little time off to do some preparatory work on your account, as I would think it would be wise to have the accounts in order before the award is finally made.

With best wishes for a Happy New Year to yourself and all of your family.

Yours sincerely,

FAB:HC

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MacLennan & Robinson

BARRISTERS AT LAW, SOLICITORS
NOTARIES PUBLIC

J. ARTHUR MACLENNAN, LL.B.
BERYL M. ROBINSON, LL.B.

430-433 ROGERS BUILDING
470 GRANVILLE STREET

Vancouver, B. C.

December 17th, 1949

Mr. F.A. Brewin, K.C.,
Barrister, etc.,
Sterling Tower,
Toronto 1, Ont.

Dear Sir:

Re: Japanese Claims Commission and
Royston Lumber Company

We are now in a position to make a further report to you in this connection. The presentation of the claims took place in October, 1948, when the evidence of the claimants and the Government was given and the matter adjourned for argument. Argument was prepared for submission on one or two subsequent occasions when for one reason or another adjournments were given and finally November 2nd of this year was set for the argument. About that time Government counsel and the writer had numerous discussions regarding possibility of settlement, the Government maintaining that the Claimant herein could not establish a valid claim in excess of possibly \$20,000.00 but we maintained that at least \$150,000.00 was the amount of the claim established by the evidence. As a result of the negotiations for settlement it was arranged that we would submit for the approval or otherwise of the Claimant the proposition that the Government would agree to a figure somewhere between \$65,000.00 and \$75,000.00, if that would be acceptable. We then arranged to take up the question of the proposal with the Claimants with the idea that at any rate a sum substantially in excess of the \$20,000.00 figure first mentioned was now virtually acknowledged by the Government. The Claimants refused to accept this proposal and intimated that they thought they would be satisfied with \$100,000.00. The Government would not increase its offer although we had an indication from the Claimants that if \$85,000.00 were offered they might consider accepting the same. As a result of the Government refusing to increase its offer

MacLennan & Robinson

- 2 -

the matter came on for argument on December 1st, 2nd and was concluded on the 5th of December this year. We presume that you would like to have a copy of the Argument and we are sending under separate cover, copy of the same for your information. We are enclosing herewith summary of the claim advanced on behalf of Royston Lumber Company Limited, totalling \$268,675.00.

We feel that the Judge should award possibly \$150,000.00 and the Government, we think, feels that at least \$100,000.00 has been substantiated, although we could obtain no suggestion of an admission of even that amount from Government counsel on the Argument. At the same time, Government counsel expressed the thought after the conclusion of the argument that the Judge might award possibly \$125,000.00. The final result, of course, remains to be seen.

We have, as you will appreciate, done a tremendous amount of work in the preparation and presentation of this claim and we are enclosing herewith copy of our account for legal services relating thereto, which we trust you will find in order. We obtained from you originally the sum of \$1,000.00. Our disbursements, as you will see from the account, amount to \$618.64 and we have not been compensated for our services which have extended over such a long period of time. Your early attention to our account would be appreciated.

Yours truly,


MacLENNAN & ROBINSON

Per: 

JAM/CM

P.S. We enclose herewith copy of the Argument.

The writer takes this opportunity of extending to you the compliments of the season and best wishes for the coming year.



GILBERT BOND

COTTON FIBRE

December 27, 1949.

Messrs. MacLennan & Robinson,
Barristers, Solicitors, etc.,
430-433 Rogers Building,
470 Granville Street,
Vancouver, B.C.

Attention Mr. J. Arthur MacLennan.

Re: Japanese Claims Commission and
Royston Lumber Company

Dear Sirs:

Thank you for your letter of December 17th enclosing an account for your services herein.

I would be very much interested to hear what award the Judge finally makes in this matter.

I have glanced at the evidence with some interest and I presume that your argument has been available to Mr. Norris in arguing the somewhat similar case of the Deep Bay Logging Company.

There seems to be a reasonable prospect that the whole claims commission will be completed early next year and we are endeavouring to make satisfactory arrangements for an independent firm of solicitors to review the accounts and for payment of the accounts out of the amounts recovered, as we originally discussed with you.

With kindest personal regards and best wishes for the New Year.

Yours sincerely,

FAB:HC

