

KUNIO HIDAKA

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MINUTES OF THE SPECIAL JCCA NATIONAL EXECUTIVE COMMITTEE MEETINGS HELD APRIL 10th  
and 11th, 1949

Vol. II, #13

Special meetings of the JCCA National Executive Committee were held on Sunday, April 10th, 3.00 p.m. to 6.00 p.m. at the Labour Temple (167 Church Street, Toronto), and Monday, April 11th, 8.00 p.m. to 12.00 p.m. at Woodsworth House (565 Jarvis St., Toronto). All the material on which discussion based at this meeting marked  
STRICTLY CONFIDENTIAL NOT TO BE PUBLISHED.

ATTENDANCE:

Sunday, April 10, 1949 - Those Present: K. Tanaka, T. Kameoka, G. Tanaka, K. Hidaka, M. Sato, T. Sagara, R. Obata, J. Oki, I. Kawajiri, N. Fujita, S. Shinobu, T. Umezuki, J. Ide, I. Uchida.

Monday, April 11, 1949 - Those Present: K. Tanaka, S. Shinobu, T. Umezuki, Y. Hyodo, T. Tsuji, K. Hidaka, G. Tanaka, J. Oki, I. Uchida, T. Kameoka, N. Fujita, R. Obata, Mr. Andrew Brewin (Co-operative Committee Counsel).

PURPOSE OF MEETING:

Upon notification that Commissioner H. I. Bird of the Royal Commission on Japanese Canadian Property had handed to Claimants' Counsel a proposal of settlement of the claims which have been filed with the Commission which was appointed to study and deal with property losses suffered by Japanese Canadians during the Evacuation, the Executive Secretary immediately called this meeting in order that the National Executive Committee of the JCCA might consider the Commissioner's Proposal for settlement. Also, to consider Claimant's Counsel, Mr. R. J. McMaster's, recommendation to Claimants with respect to the proposal, and the Co-operative Committee's recommendation to Claimants with respect to same. Having given full consideration of the available facts and recommendations from Claimants' Counsel and the Co-operative Committee, the National JCCA Executive Committee could then formulate their recommendation in a sincere effort to give leadership on this very difficult question to component Chapter executives.

THE PROPOSAL OF SETTLEMENT:

The following is a summary of the Proposal received from the Dominion Government on the recommendation of Mr. Justice Bird, for settling all claims (excepting Corporation Claims):

Real Property

1. Sold to the Veterans Land Act Administration (Fraser Valley Farms):
  - (a) Village of Mission - 125% on the actual sale price,
  - (b) All other farms sold through VLA - 80% on the actual sale price overall.

(The above gives average percentage overall allowance. The actual amount paid would be distributed to individual claimants on the basis recommended by Claimants' Counsel and approved by the Commissioner depending upon appraisers' reports.)

2. All other real estate outside Vancouver - 12.5% on actual sale price.



3. City of Vancouver - 5% on sale price.
4. (Special cases of greenhouses and poultry farms to be considered separately).

#### Personal Property

1. Nets and Fishing Gear - 25% allowed on nets actually sold.  
- On nets and fishing gear lost, destroyed or stolen an over-all percentage of 62 $\frac{1}{2}$ % of total claims to be distributed varying in individual awards on the basis of claims made.
2. Boats and Gear - 21 vessels sold to Nelson Brothers 23.5% of sale price.  
- Other boats and gear 28.5% on sale price.
3. Motor Vehicles - 25% on sale price.
4. Other Chattels - Sold at auction 22% increase on sale price.  
- Sold by tender 10%.  
- Sold with realty, lost, destroyed or stolen, 35% of claim and 15% distributed according to relation between claim and chattels already sold.

An allowance of 5% to be made on claims allowed to cover valuation and other expenses (not including legal expenses) of claimant.

This in total would amount to roughly \$800,000.00 to be distributed.

#### RECOMMENDATION OF COUNSEL

Mr. R. J. McMaster, Claimants' Counsel, who has been taking the greater part of the responsibility for presenting general evidence to the Royal Commission in Vancouver and who has been persistently pressing for the fairest possible awards on the claims, and whose sincerity and great capacity for shouldering a tremendous amount of work for the sake of claimants cannot be questioned, has the following comments to make respecting the Government's offer:

"It is my opinion, as expressed to the Commissioner, that dealing with City Property alone, I cannot conscientiously recommend his proposal. However, I find myself in this dilemma:

Aside from the city property situation I consider the remainder of the proposal reasonably just and the VLA part of it as much as, if not more than, we could possibly hope to have established. In these circumstances, if I were acting for an individual client, I would advise him to settle on the proposed terms. But there are some 175 claimants with city property, some of whom at least are entitled to better consideration. On the other hand, frankly, our evidence on city property is horribly weak. On many of the properties our own appraiser would give no increase, and over-all his appraisals are only about 10% higher than Custodian sale price. Even if this branch of the case could be proceeded with without prejudice to the balance of the settlement, having regard to the Judge's attitude, I doubt, if we would get 10% (over-all) including commissions. It is possible if this were insisted upon that we would not recover the commissions as they are "outside the terms of reference." In such event many claimants would get nothing.

Furthermore, the Judge intimated that his recommendation as to costs was only on the basis of the proceedings being shortened and intimated they might not be



forthcoming if hearings were insisted upon. How one explains this to 1200 clients, however, is difficult to envisage.

.....If the settlement breaks down, we are confronted with:

- (a) the Judge's expressed opinion that certain categories of property sold for their fair market value; and
- (b) the possibility (if not the likelihood) that in the final outcome no consideration of matters outside the terms of reference would be given. On the basis of the present figures this would mean about \$75,000 plus \$35,000 costs, or roughly \$100,000;
- (c) the possibility, for reasons outlined in other letters, of recovering less on VLA and perhaps nets;
- (d) a Commissioner who will have no enthusiasm for carrying on.

As against these, we might persuade the Commissioner that fair market value was not obtained on some chattels and some City and urban property. .... (we) might see the Minister and urge him to suggest to the Judge that he include some allowance for the fact that city properties were sold subject to tenancies. I am afraid this is the only suggestion I can make. The only other small concession I can see Bird making is possibly in cases where we have evidence of a resale within six months to a year after the sale by the Custodian. This would be unfair to the fellow whose house did not happen to have resold but it might be better than nothing. Even in these cases the fact that the then Vendor was in a position to give vacant possession would cut down the recovery."

#### RECOMMENDATION OF MR. VIRTUE TO HIS CLIENTS:

It is reported that Mr. Virtue in Alberta intends to recommend acceptance of the proposal for settlement to his clients most of whom are claiming on VLA sales.

#### RECOMMENDATION OF CO-OPERATIVE COMMITTEE:

The Co-operative Committee on Japanese Canadians, as the body retained by the claimants and thus feeling a direct responsibility to claimants to refer the matter directly to them, after studying the proposal of settlement and Counsel's recommendations, has recommended as follows:

"The Co-operative Committee, on the advice of the Counsel, recommends the acceptance of this settlement for the following reasons:

1. The Terms of Reference which bind the Commissioner and against which the Co-operative Committee has protested so far unsuccessfully restrict the right to recovery to the difference between the actual selling price and the fair market value of the land or chattels in the condition they were in at the date of sale.
2. A very great deal of work has been done by the Co-operative Committee in collecting valuations, making surveys and analyses, and securing the evidence of expert appraisers. In respect at least to property sold to the V.L.A., boats, fishing nets and gear, the amounts offered correspond with the evidence. In respect to other types of property in which the offer is disappointing there are great difficulties in securing satisfactory evidence.



3. In the long run, it is the opinion of the Commissioner, Mr. Justice Bird, which will prevail as to the fair market price and the amounts to be awarded. His present recommendations, although not final decisions, indicate his probable views. It is unlikely that if we proceed, he will be inclined to award more than he now recommends and it may be considerably less and in some cases nothing at all. The only alternative to accepting the offer is to proceed with hearing evidence on individual cases. This will involve continuing heavy expenses and delay in making any payments for probably at least 2 years.

The Co-operative Committee is of the opinion that the offer in respect to Vancouver property is too low and will make every effort to have the amount offered increased to a fair figure.

It should be borne in mind in considering whether the offer should be accepted that we are not in a position to choose what we think would be an entirely just and fair allowance. We must choose between accepting the offer with the prospect of early payment, or refusing the offer, with the consequent heavy expense and delay, and probably a lower overall recovery."

This recommendation for acceptance of the proposal with reservations is to be communicated to each individual claimant by mail immediately. The request of the Commissioner, Mr. Justice Bird, is that he receive a reply to his proposals by the 30th of April, 1949. Meetings of claimants are being arranged by the JCCA at which most claimants will have an opportunity to ask questions as to details of the offer and will be asked to express their opinions as to accepting or rejecting it. Those claimants who will be unable to attend such a meeting are being requested to write to the Co-operative Committee informing them whether they are willing to have the Committee accept, on their behalf, the settlement proposed. The Co-operative Committee has asked the JCCA to organize these Claimants' meetings.

#### DISCUSSION:

Members of the National Executive Committee found themselves placed in as great or even greater dilemma than Claimants' Counsel and the Co-operative Committee when confronted with the making of a decision on the Government's proposal for settlement of property claims.

As the principle of over-all settlement, so far as the National Executive Committee is concerned, was generally agreed upon as an acceptable method of settlement under the circumstances, on the grounds that it would probably mean a greater number of claimants receiving some award for losses and that the heavy legal expenses required to follow through the hearing of each claim individually would not be practical or a welcome prospect to claimants, this point was not a contentious issue. However, the Executive Committee felt that the settlement principle could hardly be looked upon with any degree of favour where the amounts of restitution involved were most unsatisfactory.

Following is a summary of the main questions and criticisms raised by various Executive Committee members and the answers applicable to them which were stated by Mr. Brewin, Co-operative Committee Claimants' Counsel, to the meeting:

1. Would not the claimants' acceptance of the proposal for settlement indicate their 'satisfaction' in the awards offered?

- Mr. Brewin stated to the Executive Committee that in listening to some of the views expressed by members of the Committee he felt that perhaps



the meaning of the word, "acceptance", was not clearly appreciated. He assured the meeting that the act of claimants 'accepting' the settlement proposal under consideration did in no wise indicate that they were satisfied with the offer. In other words, Mr. Brewin stated in drawing an analogy to express this point, "a person claiming for damages against an insurance company could be offered a sum in settlement which might be quite unsatisfactory as compared to what he feels his just compensation for injuries sustained. However, his Counsel may advise him to accept the sum offered in settlement as he knows from the expressed views that this is all his client can in fact receive. If this particular client takes his Counsel's advice and 'accepts' the sum offered for settlement, he could not be considered as having indicated his 'satisfaction' when he has already stated the figure which he considers justly due him." Also, Claimant's acceptance need not be unconditional as, for instance, the Co-operative Committee recommends acceptance with certain reservations.

2. Does not the fact that the Commissioner has asked claimants to decide acceptance or rejection of the offer indicate the unwillingness of the Commissioner to take responsibility for making the final decision of settlement himself?

- Mr. Brewin stated that the fact that the Commission had made a proposal of settlement to Claimants through their Counsel did not indicate any unwillingness on the Commissioner's part to take the responsibility for final decision. The proposal is being referred to claimants because under the terms of reference there is provision for individual hearings. The Commissioner and Claimants' Counsel have come to the conclusion that an over-all basis of settlement provides for compensation for a greater number of claimants and on the whole would make for more fairness, than if taken on the individual hearings basis. In view of the choice of the over-all basis of settlement, the Commissioner would refer the proposal for a decision through Counsel of the Co-operative Committee to that Committee. The Co-operative Committee, in turn, as retained by the Claimants, have considered it their responsibility to refer this matter directly to individual claimants for their decision. If the proposal were considered altogether wrong by Counsel they would advise Claimants accordingly.

3. Can Claimants not put the whole onus back on the Commissioner and state to him that they will not take a position on the proposal?

- If the offer is ignored by the claimants the Commissioner can withdraw the offer for settlement. Ignoring of the settlement proposal would be done in the face of:

- (a) Counsel's and Co-operative Committee's considered recommendation for acceptance of the settlement proposal to Claimants, and Counsel's statement that with his knowledge of the evidence he considers the proposal, in the main, reasonably just and the VLA part of it as much as, if not more than, could possibly be hoped to have established. The percentage offered on settling City Property claims is most unsatisfactory but in this case claimants' evidence is 'horribly weak'.
- (b) The Commissioner's belief that the settlement proposal is a generous offer which includes concessions for items outside of the terms of reference involving some \$100,000 for which he asked special permission of the Minister of Justice to include for the purposes of making a settlement.



4. Are not the Government's proposals meant as the final decision they will arrive at as to settlement, and therefore offers claimants no alternative?

- Under the Terms of Reference the Claimants have the right to have their claims heard individually. However, both the Commissioner and Claimants' Counsel have come to the conclusion that the only practical means of arriving at a decision on the claims would necessitate some method of consideration on an over-all principle basis which would obviate the necessity of long drawn-out proceedings. Therefore, in consideration of the fact that claimants have the privilege of having their claims heard individually, the over-all settlement as presently submitted by the Commissioner probably is put by the Commissioner to the claimants with an appreciation that alternative methods of consideration of claims exists.

5. Could we not assume that the Government, in its desire to round up the matter, would increase percentages upon the rejection of this first offer?

- It would be difficult to reasonably make that assumption in our awareness of the persistent efforts to date of Claimant's Counsel, Mr. McMaster, to have the percentages increased all around, and the fact that the percentages now offered are largely a result of such efforts. Justice Bird is reported to have expressed the view that he is not disposed to increasing the percentages in the Government's offer and that he had now stretched his conscience beyond the terms of reference as far as he would go. Also, we have Claimants' Counsel, Mr. McMaster's, statement that "aside from the city property situation I consider the remainder of the proposal reasonably just and the VLA part of it as much as, if not more than, we could possibly hope to have established."

6. If the offer is ignored and that would bring unfavourable consequences, what are these consequences?

- The possible unfavourable consequences are:

- (a) Withdrawal of the Government's offer altogether.
- (b) The resulting recourse to individual hearings would bring with it increased legal expense and delay.
- (c) The final awards on the basis of individual hearings would probably be lower than on the over-all basis, a few may get more, and a great many may get nothing.
- (d) Withdrawal of \$100,000 worth of awards which under the proposal for settlement covers restitution for items outside the Terms of Reference.

7. If the offer is accepted, with indicated reservations, by majority vote of claimants, what is the point in expressing such reservations?

- The expressed reservations on the Vancouver Property offer has already been acted upon by Co-operative Committee Counsel, Mr. Brewin, by means of a strong letter to the Minister of Justice in confidence urging that the Government increase their offer on this at least to 10%. For negotiating such increases, Counsel should be given bargaining power to get the best increase he can.

The matter of the narrowness of the Terms of Reference could very well be brought up again in the event of a change of Government when it might possibly be given favourable consideration.

With regard to the hearing of special cases, the Judge has already accepted the fact that settlement under the proposed formula would be



clearly inadequate and should therefore be given special attention, e.g., poultry farms, greenhouses, certain chattel claims.

8. If the VLA Claims constitute a majority of the claims and there is some likelihood of their accepting this settlement of their claims, why not get the results of their voting first before we of the National Executive Committee decide which way our recommendation should be made?

*whose idea?*

- The National Executive Committee could not make their recommendation on that basis, in view of the fact that the relevant information is to hand from the Co-operative Committee and Counsel on which to base a decision. In making the recommendation, a point we need to bear in mind is the greater good of the claimants taken as a whole, taking into account the circumstances as we understand them, and the facts as we have knowledge.

9. Is not the recommendation of Claimants' Counsel after all just one opinion?

- The recommendation of Mr. McMaster for acceptance of the settlement proposal is a recommendation made by one who more than anyone else knows the circumstances, the available evidence, the amount of work carried out, the extent of the talks conducted with the Government's Counsel and with the Commissioner.

The work of Mr. McMaster and the staff which he has employed in the collection of evidence has included: "careful statistical analysis, valuations, surveys based on relationship between assessments and sale prices, surveys based upon the value of properties as shown by the annual value of the crops, and other available evidence. Experts have been employed in regard to nets and fishing gear, boats and motor vehicles, auctioneers and others with respect to auctions. A very great deal of other evidence has been collected, and Mr. McMaster has cross examined individual witnesses extensively."

10. As we discuss this matter in this Committee should it not be from the point of view of a member of the National Executive Committee of the JCCA which must needs consider this question on a more all-inclusive basis?

*X*

- It was pointed out that if an executive member wished to look at the question purely from the point of view of a claimant the settlement offer may be entirely unsatisfactory as far as his own claim is concerned, but as a member of the National Executive Committee and the place of that Committee in relation to Japanese Canadian Claimants, its member chapters, the Co-operative Committee and Counsel and knowledge of the facts and views of each group, he could arrive at a different conclusion for the Executive Committee.

11. Has the National Executive Committee any responsibility for making a recommendation one way or the other on the proposal of settlement?

- The National Executive Committee has no legal responsibility to make a recommendation, but there is a responsibility in terms of the leadership expected of this body by the member constituents in such a matter as this. If the National Executive Committee waives the responsibility for showing leadership on this issue, the Provincial and local Chapters will be called upon to formulate a recommendation for their constituents in the light of their knowledge of the matter. A recommendation from this Committee would provide a basis on which to conduct claimants' discussions on the proposal for settlement.



MOTION TO MAKE A RECOMMENDATION

MOVED by N. Fujita and seconded by T. Umezuki that the National Executive Committee of the JCCA make a recommendation to its constituents and the claimants respecting the proposal of settlement on property claims received from the Dominion Government on the recommendation of Mr. Justice Bird.

CARRIED.

(Contrary votes recorded: R. Obata,  
I. Uchida)

MOTION EXPRESSING THE RECOMMENDATION:

MOTION #1 - Moved by K. Hidaka that we recommend that in this case, the recommendations of the Commissioner and the Government are not satisfactory, that claimants should not be taking a position giving any indication that they are satisfied with the percentages, that they have an alternative of either rejecting or making no recommendation and leaving it to the Commissioner.

There was no seconder to this Motion.

MOTION #2 - Moved by T. Umezuki and seconded by T. Tsuji that although we are not satisfied with the settlement proposal for property claims received from the Government, after hearing and studying the recommendation of Claimants' Counsel, we are of the opinion that there is no alternative than to endorse the recommendation of acceptance as formulated by the Co-operative Committee with the following reservations:

1. The offer with respect to Vancouver Properties is too low.
2. The Terms of Reference are too narrow.
3. Some special cases which if settled under the proposed formula would be clearly inadequate should be given individual consideration.

CARRIED.

(Those voting in favour: S. Shinobu, Y. Hyodo, T. Kameoka,  
G. Tanaka, T. Umezuki, T. Tsuji,  
N. Fujita.

K. Tanaka - in the Chair.

Contrary votes: K. Hidaka, J. Oki, R. Obata.

Abstained: I. Uchida).

MOTION RE EXECUTIVE SECRETARY'S TRIP TO MEET PROVINCIAL EXECUTIVES:

Moved by T. Umezuki and seconded by Y. Hyodo that the Executive Secretary, Mr. George Tanaka, take the proposed cross-country trip to meet with Provincial JCCA executive members to brief them with the details of the Government's proposal in order that they, in turn, may organize through their local chapters, claimants' meetings and provide all the necessary information. The understanding is that the travelling expenses for this trip will be fully provided from the Co-operative Committee Claims Fund.

CARRIED.



