

COPY

JAPANESE FISHING VESSELS

Upon declaration of war with Japan in December, 1941, all fishing vessels of persons of the Japanese race insofar as they could be found, were taken into custody by R.C.N.

For the purpose of maintaining the war effort it was necessary to get these boats back into production.

By P.C. 288 of 13 January, 1942, The Japanese Fishing Vessels Disposal Committee was set up. Its main function was to facilitate sales, leases or charters of the vessels to persons other than those of Japanese race. No such vessel could be sold etc., without the Committee's consent.

It is important to note that while the Committee was expected to get these vessels back into the production of fish, the vessels were not vested in the Committee and they had no power of sale without the owner's consent. Thus they were expected and indeed required to do a task, without the powers necessary to accomplish same.

It should perhaps be mentioned that out of the 1,397 vessels which were listed with the Committee, 200 were found to belong to persons not of the Japanese race and were accordingly returned to the owners.

For the purpose of recording its work, the Committee has divided its activities into four periods. These are briefly as follows:

- (a) Initial Sales - January 28 to February 28, 1942
Much of this time was taken up in listing or sorting the vessels and making them available for inspection. Also due to an erroneous impression

of the Japanese that they might be allowed to fish under supervision, a certain sales resistance was built up. Thus in this period only 46 vessels were sold. 27 were requisitioned by the services.

(b) Most Active Sales - March 1 to May 31, 1942

10 The Committee, finding that disagreement as to price was the chief deterrent of sales, had the vessels appraised and then adding 15% as a safety factor, established such figure as a "suggested negotiating price."

It may be of interest to observe that the prices obtained averaged over 5% higher than the "suggested negotiating price".

During this period 625 vessels were sold and 33 were requisitioned by the services.

(c) Declining Sales - June 1 to August 5, 1942

20 In the latter part of May it became evident to the Committee that certain Japanese groups were determined to retain ownership of their vessels and leave it to the Government agency to continue their care and upkeep indefinitely. Inasmuch as these groups had been afforded the same opportunity to sell as the co-operating majority, and in view of the fact that it was essential to relieve the Navy Service from the care of the vessels remaining in custody as quickly as possible, the Committee adopted the following resolutions:-

30 "When a bona fide offer to purchase a vessel is made by an eligible applicant and the price is deemed fair, but not less than 'suggested negotiating price', and the Japanese continues

"to refuse to sell, or places an unduly high price on his vessel and refuses to arbitrate, the Committee will sell the vessel at a price determined as fair by them, accepting cash payment therefor which shall be held in trust until the Japanese owner completes the transaction by delivering his licence or register and executing a bill of sale."

"The new owner to be given a letter or prepared form, addressed to the Registrar of Shipping, of a nature acceptable to him. This form will permit the new owner to operate the vessel pending completion of permanent documents."

It will be noted that by this resolution the Committee decided to do something for which they had no legal authority. Their actions would have to be validated either by the Japanese owners or by some other competent authority.

In fairness to the Committee it should be stated that they had exhausted every other avenue of sale, and they were being urged by the Government and the canneries to get the boats into fishing production, as an aid to the production of canned fish to increase the war effort. Also the boats were being guarded by Naval personnel and with the manpower shortage the Navy was increasingly insistent that their men be withdrawn for more active duties. Again, fishing vessels require such maintenance, and it was a very great expense to the Government to continue this care and upkeep.

As June advanced it became evident that the capacity of the current market to absorb vessels was nearing exhaustion, and the greater portion of the requirements of the fishing industry having been attained, and it being imperative to relieve Naval personnel, the Committee negotiated with canneries for the disposal of the vessels either by purchase or by way of a bailment plan with option to purchase. Most of these negotiations were abortive and only one company, Nelson Brothers Fisheries Limited, adopted the plan. This company took over 52 of the boats on the bailment plan with option to purchase. They had the use of the boats during the current fishing season and paid a nominal rental of \$25.00 per boat.

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As it turned out these boats were mostly sold, through the cannery, to individual fishermen.

Before considering the fourth period, which was after the Custodian entered into the picture, it will be of material help to study the manner of his entrance.

When it became clear that the Canneries would not take over the remaining fishing vessels, and that the best vessels having been released, the bulk of the remaining boats would have to be stored for a considerable period A.E. McMaster, executive assistant to the Committee, in a memorandum dated 29/6/42, recommended that the Custodianship of the remaining vessels be assumed by a permanent Government Department such as R.C.M.P., the Chief Supervisor of Fisheries in B. C. or the Custodian of Alien Property. Of these three he suggested that the latter was the most logical since he was already administering most of the property of evacuated persons of the Japanese race. Mr McMaster in a telegram received on or about 7th July 1942, from Deputy Minister of Fisheries, was advised that the recommendation to turn over vessels and equipment remaining as at July 31st to Custodian was receiving immediate consideration. On or about 8 July 1942, Mr McMaster discussed this proposal with G.W. McPherson, Deputy to the Secretary of State, who had organized the branch of the Custodian's Office in Vancouver. Mr McPherson in a letter dated 4th July 1942, addressed to Dr E.H.Coleman K.C., Under Secretary of State, and Deputy Custodian, while admitting the logic of the suggested move, pointed out that the task would be difficult and expensive, and that since the Custodian was not allowed to charge any commission or fees for management of property, the proposal should be avoided. Having heard that an Order in Council

had been drafted, Mr McPherson, in a further letter to Dr Coleman, dated 11 July, 1942, asks that the Order in Council be delayed until proper administrative arrangements may be worked out between the Custodian and the Committee.

In a letter dated 17 July from Mr McPherson to Mr McMaster he says, "I am pleased to know that it is probable the Custodian will not have to take control of vessels now under the control of the Committee".

However at that time a new plan for the disposal of the vessels to the Canneries had been formulated by Mr McMaster and a copy thereof was forwarded to Deputy Minister of Fisheries in Mr. McMaster's letter of 14 July, 1942. As it seemed to be making headway, Mr McPherson in a telegram dated 17 July, 1942, wired Dr Coleman urging him to have the effective date of Order in Council 31 August, 1942.

A telegram dated 17 July, 1942, from A.J. Whitmore of Department of Fisheries to J.F.V.D.C. reads as follows:

"Am to advise arrangements agreed upon whereby as a protective measure only all vessels or equipment not then disposed of shall be transferred to the Custodian of Enemy Property as of July 31 and that all unfinished business of the Committee in respect of vessels and equipment so turned over shall on and after August 1 be transferred to the Custodian. Hence if suggested arrangements your airmail letter of 14th are further developed it will be desirable they be tentatively effective after July 31st so that they would be approved and under jurisdiction of Custodian. Intended that Committee should bring to conclusion any details remaining pertaining to vessels disposed of prior to July 31st."

N.B. The underlining is my own.

In a letter dated 17 July, 1942, A.E. McMaster to G.W. McPherson in speaking of his new plan for sale of boats to Canneries says "whether or not you take over the jurisdiction of these remaining vessels on July 31st, I think you should advise us if you approve of the plan we are following."

In a reply dated 18 July, 1942, Mr McPherson

states as follows: - "Negotiations you have had with the various fishing companies would appear to be a reasonable solution to the problem now facing your Committee, As I understand it there is a possibility that the property controlled by your Committee may shortly be vested in the Custodian under an amendment to the existing Order in Council dealing with this matter. If this should come about, the Custodian's Office here will of course take over the administration of same, and in the course of our conversations it has appeared reasonable that your organization should continue to function for some little time. The Custodian of course, in taking over control if the Orders in Council are passed, would take them over without any responsibility as to work done up to the time that he took control."

"As regards the plan now being worked out which will affect the control in the future, I am quite agreeable to same being carried out along the lines already discussed and I am hopeful that the Custodian will not have to take control of this work until after the end of August. but I have not received any reply to my wire to Ottawa. I will advise you if and when a reply is received. Your co-operation in these matters is greatly appreciated and anything I can do to assist your Committee in closing up this work will receive my immediate attention."

In a letter dated 18th July, 1942, from Mr McMaster to A.J. Whitmore of Department of Fisheries he says inter alia and after explaining the progress which has been made in the plan to sell vessels to the canneries:-

"Your telegram suggests the desirability that if we develop our plan it should be made tentative for the period after July 31st"

I have talked this matter over at length with

with Mr McPherson, and he agrees with the suggestion I made to you that the actual transfer of responsibility should be retained by this Committee until the end of August and he has wired Dr Coleman accordingly. This plan can be worked out effectively in conjunction with the closing up work of the Committee, and certainly would be the most economic method insofar as the Government is concerned. In any case the Committee will continue bringing these various plans to a conclusion until we hear what is finally decided".

In a letter dated 24 July, 1942, from Department Secretary of State to Mr McPherson, but not received by him until about 28 July, 1942, it states as follows:-

"By the time your telegram of 17th was received, the recommendation of the Minister of Fisheries had already passed Council and received the approval of the Governor General under date of 20th July. I am enclosing a certified copy of the Order in Council (P.C. 6247).

I hope the number finally turned over will prove to be small".

P.C. 6247(1942) - a copy attached as Exhibit "A"

The following points are of interest:-

- (1) In the recitals it says:- "little further absorption may be immediately expected by B.C. Fishing Industry excepting such vessels as may be disposed of in the course of the next two or three weeks;"

i.e., It was apparently contemplated that the Committee would continue to sell after the 1st August.

- (2) It recites remaining vessels 238. It is impossible to reconcile this figure with any known figure. In Mr McMaster's letter of

20th July, 1942, referred to supra, he speaks of 195 vessels shown on inventory on 16 July, and in his report of 23 July he gives the number as 149.

10 (3) "As a protective measure only" repeats wording of P.C. 1665 and indicates no intention of selling.

(4) "All vessels and equipment . . . which have not been disposed of under the supervision of the Committee . . . shall on and after August 1 be vested in etc., etc.,"

20. The words show that anything "disposed of" by the Committee shall not vest in Custodian. Quere meaning words "disposed of".

"On and after" may have great significance since the usual words to vest forthwith are "as of". This may indicate an intention to achieve a gradual vesting.

The words "shall . . . be vested" may indicate a gradual vesting since words for immediate vesting are "are hereby vested".

30 (5) All unfinished business 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 Custodian.

This presumably only relates to unfinished business of boats vested by this Order. Since only undisposed of boats vest, the unfinished business relating to boats which have been disposed of does not vest.

10 The words "on and after" are repeated, again indicating that a gradual process of

vesting may have been contemplated.

The words "shall be transferred" may indicate futurity. The usual wording for immediate transfer is of intent, "Are hereby transferred".

The verb "transfer" may also have significance, since the verb used in Sec. 1 is "vest". "Transfer" suggests a more physical act than the word "vest".

(6) It will be noted that this Order in Council gives the Custodian no power of sale.

20 It will be observed from the correspondence that the vessels were gradually taken over apparently on the strength of the words "on and after". That is why the J.F.V.D.C.'s 3rd period is shown as up to August 5, 1942. It was not until that date that any of the boats were physically taken over by the Custodian.

In Mr McMaster's report No.26 of 23 July, 1942, addressed to Minister of Fisheries, in para.4 he speaks of "149 vessels remaining under the jurisdiction of this Committee on July 23rd, 133 are at the Fraser River moorings", and 16 at Prince Rupert.

30 As will be recalled earlier, in the 3rd para of the J.F.V.D.C.'s operations they had sold vessels arbitrarily, undertaking to make title later. About 50% of these sales were regularized by the Japanese owners either before or after August 1. Where regulations prior to 1 August no difficulty arises as to title.

On 14 July and on previous occasions Mr McMaster had written to the Department of Fisheries regarding issue of bills of sale in instances where the former owners had declined to complete such documents.

10 In a letter dated 3 August, 1942, from Department of Fisheries to Mr McMaster, they advised that the

matter has been placed before the Department of Justice and that they had received a reply in which in effect the Department merely advised them that the Committee had no power to sell in the absence of consent by the owner. This was obvious and needed no learned opinion of the Department to establish. The Department of Justice then went on to suggest:

"The suggestion has previously been made that the vessels remaining on hand by July 31st be turned over to the Custodian on enemy property and I think that this is the only thing that can be done in the present case. If the necessary arrangements are made at the time of such handing over, the Custodian could undertake to sell the vessels and give title in cases where the present owners refuse to sell."

The Department of Fisheries' letter then states as follows:-

"In any such arrangement it would appear desirable that the former owners in each case be notified of the intention and that a due date be fixed prior to end of August by which they would have opportunity of taking advantage of the Committee's disposal negotiations; the alternative would be that such negotiations would be turned over after such to the Custodian for completion in accord with the usual procedure and practice of the Custodian."

The Department of Justice's suggestion would appear to be that the Custodian undertake to resell the vessels which the Committee had already sold and if the owners refused to ratify them give a bill of sale from the Custodian.

There are the following obvious objections to this:-

- (1) The Committee had already sold, handed over the vessel and received the money.
- (2) The sale having been made, neither the vessels

nor the unfinished business vested
in the Custodian.

- (3) The Custodian under P.C. 6247 had no power
of sale.

The Department of Fisheries' suggestion is
also objectionable because:-

- 30 (1) If the vessels or the unfinished business
in relation thereto had vested in Custodian,
unless the phrases "shall be vested" and "on
and after" can be interpreted to mean the
vesting gradually occurred as the actual
physical act of handing over took place, the
Committee had no jurisdiction after 1 August
and until 31 August.
- (2) If the vessel sold prior to 1 August did not
vest in the Custodian, then if the owner refused
consent, the Custodian had no power to regularize
same.
- 10 (3) The Custodian had no power of sale in any event.
What then was the position insofar as regulariza-
tion was concerned after 1 August, 1942?

It simply appears to be that the undisposed of
boats and the business relating thereto vested in the
Custodian. Thus a boat disposed of prior to 1 August could
still be regularized by the owner but could not be
regularized by the Custodian because firstly it wasn't
vested in him and secondly he had no power of sale.

It might be as well at this stage to consider
P.C. 469 of January 19, 1943, which amends P.C. 6247,
20 a copy of P.C. 469 attached as Exhibit "B".

This amendment was passed at the request of
Mr C.W. McPherson and others who pointed out that:-

- (1) Only undisposed of vessels vested in
Custodian.

(2) Custodian had no power of sale.

(3) Only unfinished business relating to
undisposed of vessels vested in Custodian.

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The amendment corrects points (2) and (3) but does not change (1). That is, it still only vested undisposed of vessels in Custodian. It gives a power of sale for sale as of 1 August but relates the power of sale to "such vessels".

All unfinished business is thereby transferred to the Custodian, but the power of sale only relates to the vessels and equipment and it does not include unfinished business. Thus if a boat had been sold prior to 1 August but the owner refused to regularize it even though the unfinished business of same now vests in the Custodian under the amendment, the latter still gives no power of sale, and any right to give a bill of sale to regularize same will have to be inferred. There is, of course, a very strong inference that if unfinished business is transferred, the right to complete same may be deemed to have accompanied the transfer.

It should be also noted that to effect immediate transfer of the unfinished business they used the words "is hereby transferred" and the words "on and from" 1 August, not "shall be transferred" "on and after".

It has been the purpose up until now to try and indicate what actually happened up to and after the passing of the Orders in Council vesting vessels in the Custodian. It was intended to give the reasons therefore, the problems, and the chronological sequence of events.

Let us, in the light of the knowledge hitherto gleaned, examine the facts relating to the sale of some 43 boats, most of which had been previously

requisitioned by the services, and all of which were purchased by the Department of Munitions and Supply for said services. It is conceded that these boats appear to have been vested in the Custodian as of 1 August 1942. The question to be determined is were said vessels "disposed of by the Custodian for less than their fair market value at time of sale?"

10 It will be the submission of the Government that these vessels were disposed of by the J.F.V.D.C., and not the Custodian. It is further submitted that the propriety of the disposal by J.F.V.D.C., is immaterial since to come within the terms of reference of this Commission it must be shown that the vessels were "disposed of" by the Custodian.

It remains therefore to examine what happened and to see whether the facts adequately disclose who actually disposed of these 43 vessels.

20 From time to time throughout the different phases of the activities of the J.F.V.D.C., the R.C.N., R.C.A.F., and R.C.A.B.C. requisitioned a number of the impounded vessels. It was apparently the intention to take these vessels upon charter party, as correspondence is found upon the files advising the owners to this effect and stating that the details of such charter party would be worked out later. Whether such correspondence is to be considered as an expression of intention to make a charter party, an agreement to make a charter party, or a charter party with the details to be agreed upon 30 at a later date, may be a debatable point. It is also germane to consider whether or not there could be any such agreement when the action taken appears to be a unilateral act by a Government Department.

However, the Department of Munitions and Supply on behalf of the relevant service bought a total.

owner of "Evergreen 1" advises J.F.V.D.C. that he will accept \$3700.00 for his boat.

By telegram dated 31 July 1942, U. Nitsui, owner of "Silver Spring" advises J.F.V.D.C. that he will accept \$3750.00 for his boat.

20 By telegram dated 31 July 1942, T. Itani owner of "Bluenose" advises J.F.V.D.C., that he will accept \$3650.00 for his boat.

By letter dated 10 August, 1942, J.F.V.D.C., advises Munitions and Supply that "Bluenose", M.V. H.C. 57 (formerly Sakura) and M.V.H.C. 126 (formerly VM2650) can be purchased for RCN at Lloyd's surveyed prices, but that owner of M.V. "Spray" (formerly Hetta VII) wants \$12,500.00 being \$2250.00 over surveyed price, and asks for instructions to negotiate about latter.

30 Similar letter of even date re E.C.A.F. boats advising two boats available at surveyed price and one owner wants \$200.00 more and asking for instructions.

Wire August 12, 1942, Munitions and Supply to J.F.V.D.C. instructing purchases to be made when prices are as surveyed and that no authority to go over surveyed price and asking them to endeavour to conclude at surveyed price.

10 Letter August 13, 1942, confirming wire of 12 August, 1942. Letter 13 August 1942, requesting J.F.V.D.C. to negotiate for M.V. "Spray" at surveyed price.

Letter 7 August 1942, received 12 August, 1942, advises J.F.V.D.C., that Suguyama will sell "Howe Sound" for \$2500.00.

The story goes on and on. At no time does the Custodian come into the picture except where the J.F.V.D.C., finds that five of the vessels wanted by Navy are under jurisdiction of Custodian. The Boats are:-
20.

C
O
P
Y

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<u>Name</u>	<u>Reg No.</u>	<u>Llyod's Surveyed Prices</u>
"Chamiss Bay"	154926	\$10,800.00
"Departure Bay"	153296	7,500.00
"Herry Chase"	155235	11,250.00
"Moresby 111"	153050	5,850.00
"Departure Bay 11"	104660	12,500.00

In a letter of 19th August, 1942, it is suggested to Custodian that Llyod's surveyed rice is fair and asking for concurrence in sale.

30

By letter 22 August, 1942, Custodian replies said boats belong to companies under control of P.S. Ross & Sons and the matter has been referred to them.

In letter 24 August, 1942 J.F.V.D.C. asks Munitions and Supply whether they are also purchasing 11 vessels requisitioned by R.C.A.S.C.

The J.F.V.D.C. took up with Munitions and Supply the question of payment of charter price up to date of sale.

By letter dated 24 August 1942, Munitions and Supply replied "It is the Department policy to pay only the appraised value. If a precedent of this nature was established, you will appreciate what complications would develop. On some vessels requisitioned by the services, the negotiations are prolonged for months, and if a charter price was taken into account, during this period, the price eventually paid for the vessel, would be out of all reason".

20

By letter 26 August, 1942, Munitions and Supply advised J.F.V.D.C. that they had been unaware of 11 vessels requisitioned by R.C.A.S.C. and have asked for instructions from Army headquarters.

In memorandum the charter rate is stated to be 20% based on 5% on the investment, 5% depreciation and 10% for loss of earnings. Survey made by Lloyd's Register arrived at by taking original cost and depreciation of hull and engine at 5% per annum compounded.

No cognizance was taken of the increase in value due to war conditions.

30

There is a mass of correspondence between J.F.V.D.C. and Munitions and Supply relating to the progress of negotiations for specific vessels and as agreements with owners are reached, agreements for sale, notations in licence book from Registrar of Shipping, bills of sale etc., were forwarded to Munitions and Supply and cheque from Treasury sent to J.F.V.D.C.

10

In wires dated 16 September 1942, addressed to Japanese owners through J.F.V.D.C. Director of Marine Services notifies owners their boats requisitioned, and arrangements for purchase will be made through Munitions and Supply as soon as possible.

By the end of September a good number of these vessels had been purchased by Munitions and Supply from the owners through J.F.V.D.C. and the money paid to J.F.V.D.C.

In a letter dated October 2, 1942 Munitions and Supply to J.F.V.D.C.,-

20

"In reference to our conversation yesterday. The following is an abstract from the War Act covering the purchase of vessels etc:-

"The compensation payable in respect of the acquisition of any vessel or aircraft shall be a sum equal to the value of the vessel or aircraft, no account being taken of any appreciation due to war, and shall, subject to the provision of this Act, be paid to the person who is then the registered owner of the vessel or aircraft."

In a letter October 8, 1942, J.F.V.D.C. advises Munitions and Supply that there were only 4 Naval vessels and 1 of the Air Force vessels for which no Bills of Sale obtained and that it was believed Bills of Sale would be obtained for these and also the R.C.A.S.C vessels within a few days.

P.S. Ross & Sons asserted to sale of the 5 vessels which had been referred to them as we find payment for them coming down from Ottawa. They were sold by P.S. Ross & Sons as liquidator of the owner company, and the proper documents completed by the liquidator.

- 10 The transactions were finally completed by the J.F.V.D.C., early in December 1942. The Custodian appears to have had no hand in the affair and apparently signed no bills of sale.

J. W. G. HUNTER
Government Counsel

JAPANESE PROPERTY CLAIMS COMMISSION

SUBMISSION TO THE ROYAL COMMISSION ON
JAPANESE CANADIAN PROPERTY

ENTERED BY THE
NATIONAL JAPANESE CANADIAN CITIZENS ASSOCIATION
84 GERRARD STREET EAST, TORONTO, ONTARIO

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To the Honourable Mr. Justice Henry Irvine Bird,
of the Court of Appeal of British Columbia,
Commissioner:

This submission is made by the National Japanese Canadian Citizens' Association and its component chapter organizations in the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Quebec. This national body was founded by a conference of representatives of various Japanese Canadian organizations throughout Canada on September 2, 1947. It has as its primary aims the protection of the economic and social welfare of persons of Japanese ancestry in the Dominion and the development of a truly democratic society wherein fundamental rights and liberties are preserved for all citizens.

The decision of the Federal Government to appoint the present Royal Commission to investigate and report on claims for property losses incurred by persons of Japanese ancestry as a result of their evacuation from the coastal areas of British Columbia during the year 1942 has been received by this Association with deep gratification. In taking such action, it is believed, the Government is moved by its desire to extend a reasonable measure of compensation wherever possible to those individuals who were called upon by the emergencies of war to assume a burden of financial sacrifice so much heavier than that borne by the national community at large. The Association accordingly has sought to co-operate at all times with the Commission in its admittedly difficult task of evaluating these losses. It has prepared and distributed claim forms, assisted where possible in the filling out of such forms, provided interpreters and information, and in general worked in close liaison with the Co-operative Committee on Japanese Canadians in Toronto.

It is not intended in this submission to consider individual claims for property losses. Rather it is proposed to outline for Your Lordship's consideration such background material and general information as appears relevant to the problem. These are discussed under the following three heads:

- (1) The economic progress achieved by the Japanese people in Canada during the half-century preceding 1942.

(2) The conditions under which the Japanese people were evacuated from the coastal areas of British Columbia during 1942.

(3) The various factors suggested for consideration in determining "fair market value" under the terms of reference of the present inquiry.

PART I

ECONOMIC PROGRESS

Immigration and Settlement

When, early in 1942 and under the grim compulsion of global war, the Federal Government finally decreed the complete removal of the Japanese Canadian minority from the British Columbia coast, it brought to a drastic and disruptive end a half-century's advance towards economic security and success. The story of the struggle of that half-century, beginning with the early arrival of eager, though bewildered young men, is an intensely human one, beneath all its political, social and economic ramifications. It cannot, of course, be related here in detail: but it is essentially the self-same history of many other immigrant groups from the Old World to the New -- a story of extravagant hopes and prospects quickly deflated by the press of unexpected reality; a gradual acceptance of and adjustment to actual conditions; a transformation from hopes of easy and quick success into the determination to build for the future; a compelling impulse to rise to higher economic and social status; and through the long process, the steady, inevitable sinking of roots deeper and deeper into the new soil. All this was as true of the Japanese immigrants as it was of those from across the Atlantic. And it is against a background such as this that the economic aspects, no less than the psychological implications, of wartime evacuation may properly be assessed.

The early migration of Japanese to Canada was a part of the general wave of emigration from Japan consequent upon the opening up of that country by American forces in 1854. By 1890 a small number of immigrants had pressed on beyond Hawaii and the American state to engage in the salmon fishing of the Fraser River. From that date the province of British Columbia itself, only two decades previously linked by its first railway to eastern Canada, entered into a period of rapid expansion and development. The great inflow of capital from

Great Britain into the Dominion reached west across the Prairies, pushing new rail lines through the mountains to the Pacific and tapping the rich resources of the coastal area -- the salmon fishing, the coal mines, the virgin forests and the rich farm lands of the Fraser Valley. This rapid development created a peak demand for manual labour, a demand which, as Young, Reid and Carrothers have pointed out, could not be met by immigrants from the remote Atlantic seaboard. The Orient alone could provide the men to do the "spade work" and between 1896 and 1908, about 26,000 immigrants came to British Columbia, often lured by the promise of high wages and the fantastic stories of great wealth. Thousands came by arrangement of the Japanese emigration companies which operated under contract from Canadian concerns. Two of the largest such concerns, W.L. Mackenzie King officially reported in 1908 in his capacity of a Royal Commissioner investigating "methods by which Oriental labourers have been induced to come to Canada," were the Wellington Colliery Company and the Canadian Pacific Railway. These are names highly suggestive of the contribution by these immigrants toward the early economic development of the Province.

Of the large number of contract workers who arrived up to 1908, however, many remained in Canada a relatively short time. Some moved on to the United States before 1901. Some had come only as seasonal workers. Many others returned to Japan in thorough disillusionment, not only with the hard fact of their economic servitude, but also dismayed by the early agitation and prejudice directed against them. For throughout this period of rapid immigration, public unrest and opposition had been growing steadily stronger. It culminated finally in the riot of 1907, which led to the first concrete restriction of Japanese immigration into Canada. This was effected by the first Gentlemen's Agreement of 1908, under which Japan agreed to permit only the following four classes of people to emigrate to Canada: (1) returning immigrants and their wives and children; (2) emigrants specially engaged by Japanese residents in Canada for bona fide personal or domestic service; (3) labourers under specifically-worded contracts

approved by the Canadian Government; and (4) immigrants brought in under contract by Japanese resident agricultural holders in Canada. A total annual quota of 400 persons was fixed for all but the first group. In 1924, the agreement was modified to reducing the quota to 150 persons. In 1928 a further limitation was introduced (extending the 150 maximum) to include the wives and children of Japanese residents in Canada within the quota limitation. The 1928 revision continued in force until the outbreak of the war, but actual immigration remained well below the limit. From 1933 to 1940 the average number of new immigrants was less than 80 in each year.

While the total volume of immigration was thus substantially limited in three important stages, an even more significant change took place in the character of this immigration. Prior to 1908 the movement to Canada had consisted, as in the earlier instance of Chinese immigration, almost entirely of adult men. But subsequent to the first agreement the number of female arrivals exceeded that of male immigrants in almost every year up to 1940. The consequences of this change are clearly reflected in the composition of the population in each census year. In 1901 the census reported 4,700 Japanese in Canada, all of whom were male; in 1921 there were 10,500 males and 5,300 females and of the total number, 4,300 were children born in Canada. By 1931, these figures had changed to 13,000 males and 9,200 females, including Canadian-born children.

These changes in the character of immigration and in the composition of the Japanese population were both reflections of, and important influences upon the economic progress of the immigrant group. Migration from Japan had begun as a transient movement of young, adult males hoping for quick and early fortune. Thousands who came to Canada remained only very briefly once they learned the actual prospect. But those who remained did so with serious intentions of permanent settlement. These intentions found concrete expression through the immigration of women and the establishment of normal family life. In turn these developments were stabilizing influences of the greatest impor-

tance. The compelling drive of family responsibilities gave full play to inherent attitudes of thrift and industry coupled with an insistent urge for economic self-improvement.

This economic advance followed a familiar pattern. First the immigrants accepted the status of unskilled workers, floating from job to job and camp to camp, receiving the lowest wages. Then came the gradual acquisition of skill and knowledge, the command of higher wages and accumulation of capital. This was followed by an initial investment in some kind of productive resources and the establishment of permanent homes. In turn, an initial investment led to further capital accumulation and investment in further capital resources. These were distributed for the most part among modern fishing boats and equipment, market gardens and small farms, urban mercantile or service businesses, and processing and manufacturing establishments of various kinds. For those who remained in the wage-earning group, there was a strong tendency to shift from the extractive and mobile stages of industry, such as the logging camps or railway section gangs, to more fixed and stable employment, such as in the pulp and paper mills or the sawmills in larger centres with wider employment opportunities, where normal homes could be established and school facilities for children obtained. In general the case histories of hundreds of Japanese Canadian families settled in Canada for over thirty years reveal the repeated story of an upward struggle for economic stability or self-sufficiency, -- an economic independence offering in some degree protection from the vagaries of employers and discriminatory policy and from complete destitution in times of economic depression. It will be of value to note some of the highlights of this occupational picture as it obtained at the time of evacuation.

Occupational Distribution

Young, Reid and Carrothers have provided us with a concise description of the economic advance of Japanese immigrants, noting particularly how the range of activities undertaken gradually expanded.

"In four decades the Japanese immigrants covered by the survey extended the range of their economic activities from six occupations in 1893 to over sixty by the end of the period. During the early years they were concentrated in industries involving heavy labour and a moderate amount of skill, such as lumbering, fishing, mining, railroading and domestic service. They gradually moved out of the occupations and industries through which they entered the economic life of the Province, into farming on the one hand, and occupations of a commercial and service nature on the other, such as clerks, proprietors of stores, restaurants and rooming houses, and business and the professions. The shift from the major industries to the commercial occupations occurred particularly in the twenties when expansion in fishing, lumbering, mining and railroading came to an end and a decline set in, partly because of the agitation and discrimination against the Japanese in these industries, but also because the Japanese like other people were seeking better conditions and a higher social status in the community."

In 1941, the Federal Department of Labor reported the following distribution of occupations applied to all Japanese Canadians gainfully employed fourteen years and more:

TABLE I OCCUPATIONAL DISTRIBUTION OF JAPANESE CANADIANS IN B.C., 1941

<u>Occupation</u>	<u>Percentage of All Japanese Canadians</u>	<u>Percentage of Total Gainfully Employed</u>
Agriculture	18.8	3.9
Fishing	16.3	15.0
Labourers (n.e.s.)	14.7	5.1
Manufacturing	13.4	2.5
Services	12.9	1.8
Trade	8.4	2.4
Lumbering	8.3	5.1
Transport & Communication	2.9	.9
Clerical	2.1	.7
Miscellaneous	2.2	--
All Occupations	100.0	2.8

Source: Canada Department of Labor, "Report on Japanese Affairs," 1944.

Agricultural Expansion

It will be noted in the foregoing table that by 1941 agriculture was the most important occupational endeavour of the Japanese Canadian group. During the previous two decades, more and more of the early immigrants had accumulated the necessary capital to purchase small land-holdings and had turned to farming as a securer means of livelihood. With limited capital resources they were unable to acquire developed farms in well-settled areas. Almost without exception they took up uncleared land lacking the advantages of location and access by main highways. But over the two decades many of these backroad, marginal holdings were built up and developed into fertile farms of high productivity, and as settlement pushed back further and further, they gained steadily in value.

In taking up land for farming, the settler's first task was to cut down trees and brush to clear a spot large enough for home and garden. The original cost of the holding and the assessed value were usually low because of the poor condition of the roads and the relative abundance of wild, undeveloped land. With the digging of drains and building of irrigation systems, the gradual clearing of more and more land, the adding of auxiliary farm buildings; the farms were steadily improved. As settlement increased, roads were improved and gravelled; power and telephone services were brought in, often financed by the individual farmer; rural mail was provided; and the railway station hamlets increased in size and services.

New crops were planted and land productivity was increased from year to year as farmers instituted crop rotation and diversification, developed new methods of tillage, and improved the varieties of plants. Co-operative marketing and buying services were organized to bring better returns for produce sold and to effect savings in essential purchases. Co-operative organization was extended to processing and canning, particularly of small fruits, the most important product of many Japanese farmers; and some protection was thus provided against

the fluctuations of the market. By these methods the farmers, acting in concert, were able steadily to increase their cash income.

While rapid advance was being made in farm development, both in expanded acreage, improved crops and produce, and in better marketing facilities, most rural municipalities adopted a policy of giving every encouragement to farm improvement. As a general rule, assessed values of farms were low in the first instance, largely because the land was non-producing. They were not increased in any way commensurate with the increased productivity nor the values of the farms resulting from the improvements. Some municipalities, in fact, maintained a lower tax rate on improved land than on wild land in order to encourage such development. Thus in 1942, the Municipality of Maple Ridge had a general tax rate on improved land of 16 mills in contrast with the rate on wild land of 30 mills.

It is, of course, well known that specialization based upon intensive agriculture was a major characteristic of this period of expansion enjoyed by Japanese Canadian farmers. Forces of economic necessity and occupational aptitude had induced a strong concentration in the small fruits industry. A secondary concentration occurred in the greenhouse industry, while individual operators built up important and substantial poultry farms, market gardens and nurseries. In these particular farm avenues the Japanese farmers were aided not only by habits of unremitting industry, but also by the fact that their families of growing children in many instances had reached the age when they were able to make an all-important labour contribution to the building up of the family enterprise.

The Fishing Industry

The Japanese in Canada have had a long association with the fishing industry. The fact that they have held a relatively prominent position in this field (see Table I) has led to some strong agitation by others similarly engaged.

It should not be overlooked, however, that the entry of the Japa-

nese fisherman was a critically important factor in the development of the industry to the point where it became one of basic importance to the British Columbia economy.

It appears a historical fact that the development of the industry would have been retarded if it were not for the Japanese immigrants who brought certain valuable experience from their homeland.

At a later stage when competition became more intense and the dependence on immigrants lessened with the entry of later arrivals, a very strong movement arose to restrict the activities of the Japanese fishermen.

Successive attempts to reduce licenses to the Japanese were substantially effective, until in a period just before the war, less than 15% of licenses issued were held by fishermen of Japanese ancestry. Notwithstanding this small percentage, however, the efficiency of this particular group had developed through many years of experience and they continued to be an important factor in production.

The Japanese fishermen in the course of time had acquired the best possible types of boats and equipment, and thus at the time of evacuation their capital investment was substantial.

The increasing mechanization in the industry, over the period of several decades, for instance, had seen the transformation of car-propelled boats to gasoline and diesel boats together with modern drums for reeling in nets. Considerable investments were made in the various kinds of nets to be used with varying conditions of season and water levels.

The fact that Japanese fishermen were faced with restrictions (not applying to other fishermen) -- such as not being allowed to move from one fishing district to another -- made it necessary for them to improve their techniques to the highest level possible, and this involved high investment for the best type of equipment.

The early fishermen were not discontented with the living quarters supplied by canneries -- such as shacks along the Steveston dykes, but as they gradually absorbed the influence of western cul-

ture and their Canadian-born and Canadian educated children grew up, they made increased efforts to improve their living conditions. Even in the unpicturesque cannery-provided houses, it became not unusual to find good quality home furnishings.

Development in the fishing industry was, of course, accompanied by boat-building, canning and processing industries which employed a considerable number of Japanese.

The Japanese are credited with the development of the herring fishing and salt herring industries.

Lumbering and Wood Products

The more important communities where the Japanese were employed in lumbering were Vancouver, New Westminster, Fraser Mills, Mission City, Woodfibre, Ocean Falls, Port Alice, Alberni, Royston, Fanny Bay and Courtenay.

There was a trend over a period of years for workers in forest products industries to move to more fixed sawmill industries in order to enable them to make homes, and secure education for their children, whereas in the earlier days they were willing to accept the lot of migratory forest workers.

This was true especially in Vancouver, New Westminster, as well as the smaller centres of Chemainus, Duncan, Port Hammond, etc. Even when the workers went into the woods for employment, they maintained homes in adjacent centres. As with the fishermen, the stimulus of Canadian-educated children made itself felt in the desire for better home furnishings and comforts for the home.

Some of the forest workers eventually became fairly large logging operators and by 1933 there were some fourteen such operators in British Columbia. The following table gives the extent of these operations:

TABLE II INVESTMENT AND ANNUAL PRODUCTION OF JAPANESE LOGGING
COMPANIES IN BRITISH COLUMBIA 1933

<u>Name of Company</u>	<u>Capital Investment</u>	<u>Annual Production</u>
Fanny Bay Logging Company	\$ 200,000	\$ 135,500
Deep Bay Logging Company	200,000	135,500
Cartwright Bay Logging Company	40,000	67,500
Highland Logging Company	20,000	35,000
Feelmore " "	10,000	54,000
Stolts " "	4,000	13,000
Taniguchi " "	15,000	40,000
Takahashi " "	500,000	570,000
Maeda " "	6,000	20,000
Uyenaka " "	25,000	60,000
Channel " "	20,000	31,500
Mission " "	8,000	23,000
	<u>\$1,048,000</u>	<u>\$1,185,000</u>

Source: Records of the Japanese Consulate, Vancouver (The Japanese Canadians by Young and Reid).

Commercial Developments

At first the Japanese immigrants looked for employment in the Province's basic industries of fishing, agriculture, lumbering and in various unskilled employment, but there was soon a trend towards settling into urban communities where they started modest retail and service establishments.

In 1931, 907 trade licenses were issued to persons of Japanese ancestry in the coastal areas.

In Vancouver, there was some publicity over the fact that a trade license was issued to one out of every ten Japanese, when the average for the city was one for every twenty-one persons, and there was some talk of restricting the number of trade licenses to Japanese.

Such a step, of course, would have been a fairly serious blow to a group who found themselves faced with restrictions in almost every field of employment into which they ventured.

The importance of the large part of these Japanese-operated

business establishments did not lie so much in the amount of business transacted or the investment represented as in the fact that they provided a livelihood for many individuals who were not fitted for any other type of employment.

The shopowners, the shoemakers, the carpenters, were often the people who had spent the more active part of their life engaged in physical labor, who had accumulated two or three thousand dollars to provide for an independent livelihood when they were no longer capable of hard work. That they found themselves turning to commercial enterprises on a small scale reflected too the lack of employment opportunities requiring less physical strength and suitable to the more elderly group into which the earlier immigrants were emerging.

These small business enterprises for the most part did provide a living, and in more cases than otherwise, represented the sole security for the family until the children were old enough to support the family. Probably because these businesses represented so much to the individual shop owners, and partially too because of their reluctance to depend on public welfare organizations, business failures were extremely rare even during the worst periods of the depression years, and very few families went on relief.

With the evacuation, this unique economic structure was broken down.

It is rather important to bear in mind when considering the valuation of the Japanese business enterprises to note two factors:

(1) These businesses had, to the Japanese, a peculiar intangible value in addition to what may be represented in financial terms -- a value, which they were required, to ignore altogether in making their claims. This intangible value lies in the fact that these small commercial enterprises were the only tangible means of security and livelihood known to its owners. They represented a goal reached after many years of toil.

(2) The years immediately before the war when the nation was

getting back on its feet after the depression seemed to have coincided with the period when a large number of Japanese enterprises had reached the stage of having become established. In other words, the generally favourable outlook for the future which the Japanese businesses faced at the time of evacuation did reflect, but is not altogether attributable to the generally increased tempo of economic activity which was beginning to make itself felt at that time.

PART II

GOVERNMENT POLICY AND THE PROPERTY PROBLEM

The Development of Evacuation Policy

The introductory section of our submission to the Royal Commission has been devoted to a summary description of the overall economic status of the Japanese minority, noting especially the development of that status and of social stability over the years. This second section is concerned with an attempt to trace the highlights of the unfolding policy introduced by the Federal Government in dealing with the repercussions on the domestic front of the disaster at Pearl Harbor, and particularly with those aspects of policy bearing directly upon the property problem.

It is, of course, well known that the prospect of the War in spreading to the Pacific Area after 1939 had caused keen concern and widespread popular agitation centered upon the 20,000 persons of Japanese ancestry settled on the British Columbia coast. The tensions and prejudice, which trace their roots back to the early history of the minority group, had once again been raised to a high pitch. So acute was the war agitation that the Federal Government late in 1940 undertook steps to ease the situation by appointment of a special committee of inquiry. In January, 1941, the Prime Minister tabled the report of the Committee which urged the importance of checking irresponsible attacks upon the Japanese in British Columbia "as an integral part of civil security and national defence." The Prime Minister announced that a special registration of all persons of Japanese origin would be immediately undertaken by the federal police as a key supervisory measure. He further announced the appointment of a small Standing Committee composed of representatives of the military, the federal police, and civic and legislative authority to advise the Government upon the developing situation. These measures, it was widely felt, contributed an important stabilizing influence not only

during the months of increasing international tension of 1941, but also during the few weeks of relative calm immediately after Pearl Harbor.

A review of the events of the critical three months up to March, 1942, however, makes it clear that the wholesale evacuation was in no wise conceived as a conscious policy from the beginning; nor were plans of any kind formulated to deal with all the ramifications of this tremendous disruption until after the decision had been forced upon the Federal Government.

The initial action of the Government was to add to its supervisory, precautionary measures. Some forty Japanese nationals were detained under the Defence of Canada regulations, most of whom were cleared and released from custody within a year's time. Under advisement of the police, the Japanese language schools and newspapers closed down voluntarily. Shortly thereafter, the special registration was made compulsory and tightened up under a new order-in-council; and policy was formalized to prohibit the operating of the fishing boats, which had already been impounded as an emergency measure.

Public opinion in its initial reaction was inclined to accept this precautionary phase as adequate, but only for a brief period; and by the middle of January the Government had evolved a more stringent, but still moderate policy. The announcement of January 14, 1942, made known the intention of the Government to undertake partial evacuation, by establishing a "protected area" from which "all enemy aliens" would be excluded. Strict surveillance of all Japanese nationals was to be continued, with added prohibitions on the use of short-wave radios and cameras. And it was proposed that the exclusion of Japanese Canadians from the Armed Forces should be continued, but provision made to set up a special Civilian Corps. In implementing this policy, the Minister of Justice on February 5, 1942, ordered all male enemy aliens of 18 to 45 years to leave the protected coastal area.

Acceptance of "partial evacuation", however, proved only momentary. By the middle of February a widespread campaign urging complete

evacuation was in full swing. Pressure was both organized and popular, and bowing before the irresistible flood a drastic change in policy was finally adopted. On February 26, Orders-in-Council were made public announcing the new situation. All prohibitions with regard to a number of special articles such as radios and cameras were extended to Canadian citizens as well. A curfew regulation was introduced confining everyone to their homes between sunset and sunrise. And every person of Japanese race, citizen and alien, male and female, young and old, was ordered "to leave the protected area forthwith."

Evacuation Movements

As previously stated the protected area was designated on January 29, 1942, and on February 5, 1942, Japanese nationals of 18 to 45 years were ordered to leave the area by April 1. On February 24 the exclusion order was revised and extended to order out all persons of Japanese ancestry forthwith. Following the exclusion order for Japanese nationals on February 5, two weeks later work camps were authorized on February 19, 1942 -- a week prior to the total exclusion order.

Except for the property of interned persons which came under Regulations Respecting Trading with the Enemy 1939, no public agency was available at this stage for the protection of Japanese property, other than fishing vessels which were subject to the divided authority of several Government agencies. When men were ordered to leave for road camps no provision was ready to care for their property. It was not until March 4, 1942, that the Custodian of Enemy Alien Property was given jurisdiction under Order-in-Council P.C. 1665. This official, however, for the first several months provided no physical facilities and confined his activities to receiving reports on property from Japanese persons as they were transported from the protected area. No advice was forthcoming as to public facilities and no central storage depots were provided. Because statements had been made that baggage was restricted to 150 pounds per adult and 75 pounds per child, al-

though in actual practice more was permitted, most of the property and belongings were left behind in homes. It had also been stated that freight and any amount in excess of the allowance would be charged to the owner.

For a large number of persons from areas outside the City of Vancouver, the removal had two stages; the first was from their homes to Hastings Park Clearing Station, and the second from the Park to Interior British Columbia. Particularly significant are the removal orders of the first stage when persons were ordered from the outlying areas of British Columbia and because of the precipitate nature of the evacuation, in the absence of public facilities they lost a large portion of their household goods and the equipment for their occupation. For example, a former resident of Hyde Creek could do nothing with his household and real property because he was given only two hours notice to vacate. Persons in Cumberland were given a week's notice to move to Hastings Park, and were told that one suitcase and one clothesbag were the only baggage allowed. A person with a rooming house was ordered to a road camp on March 29, 1942; when he refused to leave before settling his business matters, he was interned. A person from Nanaimo reports that he was ordered to Vancouver on twelve hours notice, but because this was physically impossible, he was given two days. During the interval when he was packing his belongings, a soldier followed his every movement. The only baggage he was allowed amounted to two suitcases and one clothesbag.

On March 27, 1942, a New Westminster family was given twenty-four hours notice to leave the protected area. The father and eldest son of the family were already at a road camp, consequently they experienced considerable difficulty in packing.

After reaching Kaslo a former Steveston fisherman sent for his household chattels. When he opened the crates he found that all valuable articles had been stolen.

A person from Georgetown near Prince Rupert states that he was

evacuated on very short notice and was allowed 170 pounds baggage made up entirely of items such as blankets and things for personal use which he placed in one suitcase and one clothesbag. He asked to be permitted to take his trunk with him but this was refused. After he reached Hastings Park on April 4, 1942, he asked that his trunk and remaining baggage be shipped to him. Months later in Slocan he received the trunk and three boxes but when the boxes were opened it was discovered that they were empty and the contents had been stolen.

A person from Qualicum Beach reports that on March 17, 1942 at nine o'clock in the morning he was ordered to take his family out of the area on the train leaving at eleven thirty o'clock. Because this was impossible he pleaded for an extension of twenty-four hours, which was permitted. He was able to take only his bedding with him. During the twenty-four hour period he disposed of his household goods by selling, and otherwise, as best he could at very great loss.

Another person from Qualicum Beach describes the conditions under which he surrendered his automobile in March of 1942. He was ordered on March 11 to deliver his automobile to a representative of the Custodian with the understanding that he would be re-imbursed for all expenses connected therewith. About noon the next day he joined a convoy of Japanese automobiles from Cumberland enroute to Victoria. It reached Victoria about five o'clock that afternoon whereupon registration took until ten o'clock that night. All gasoline and oil was bought by the owner and no reimbursement was made. Further complications arose because of the curfew. He had to take a taxi to the hotel, and also had to meet all expenses.

Cases such as the above were typical, and similar conditions were experienced by the Japanese in their movement from their homes and later again when they reached the interior towns. The economic loss arising from such conditions has affected all the Japanese. Men ordered to road camps, both before and after the Custodian was placed in charge of Japanese property on March 4, 1942, had no facilities for

storing their belongings. The minimum amount of baggage, which they were allowed, consisted only of bare essentials for physical survival; such as, blankets, heavy work clothing, boots, etc.; their other belongings had to be left with their families or stored with friends. Persons interned were able to take even fewer things with them; usually the clothes they wore, a towel and a toothbrush. Their other belongings also were left behind in an indefinite state. When families moved, the accumulated possessions of many years of domestic life were on their hands; with no storage facilities other than their own homes and some community buildings, their predicament was worse. It was out of the question for them to take their possessions to Hastings Park, to the interior towns, or to sugar beet farms in Alberta and Manitoba. Consequently, very little property was shipped and resulting therefrom, because of the attitudes of some sections of the public and because of the general circumstances of the period, a large proportion of these belongings were lost or stolen.

Impact of Evacuation Policy upon Property Administration

A review of the foregoing circumstances points still further to the contention made earlier that evacuation was not initiated on a broad plan nor as a permanent movement. It is only in the light of this fact that the failure of the Government to take adequate steps for the protection and preservation of property can be explained. The Government provided no facilities for the protection of property while the evacuees still remained in the protected area, other than the formality of registration. Caught unprepared, there was forced upon the Government a civilian undertaking of such magnitude and complexity that it was not able to find personnel capable of realizing all the programme entailed. Under the emergency conditions it was called upon to face, it was unable to formulate policies and procedures adequate to cope with the problems as they arose. As a consequence, there was unnecessary suffering and hardship on the part of the people and the loss of economic resources on a large scale.

There had been no previous preparation by the Custodian to include the administration of Japanese property within his organization. The first instructions given the Custodian under Orders-in-Council P.C. 1665 of March 4 and P.C. 2483 of March 27th, 1942, were to assume management and control of evacuee property "as a protective measure only." The first sign that the removal had assumed permanent aspects came with Order-in-Council P.C. 5523, on June 29, 1942, whereunder "protection only" was abandoned and powers of disposition by "sale, lease, or otherwise" of agricultural land was authorized, and again with P.C. 469 of January 19, 1943, when such powers were extended to all Japanese property within protected areas.

Further evidence of the temporary nature of the evacuation programme is given in the provisions of P.C. 3213 of April 21, 1942, whereupon the recommendation of the Minister of Justice, the British Columbia Security Commission was empowered to enter agreements with the Government of any province relative to temporary placement of persons of Japanese race for the duration of the war, with the understanding that such persons were to be removed upon the termination of the state of war.

Even as recent as July, 1944, during the course of the debate on a section of the War Services Electors Bill, which deprived certain Japanese Canadians of the franchise for the war period, the Prime Minister in the House of Commons stated that the franchise was denied because the Japanese Canadians were moved as a temporary measure and were to be returned at the end of the war.

From these official statements, the removal would have to be viewed as an undertaking similar to the evacuation of civilians from other war zones and it would not be unreasonable to expect that evacuated persons would be permitted to return to their homes as soon as permitted by military exigency. For this reason, persons spent the short time available storing their personal property, often without crating, in their attics, basements, rooms, barns, etc., and in some

instances did no more than lock the windows and doors as they left. Where quarters were rented, persons without storage space often had to resort to quick sales or to leaving their goods in community halls, temples, churches and schools. Because proper public facilities were not provided, and because they had to resort to makeshift arrangements for storing possessions, the change in policy from temporary removal to permanent resettlement has made a very high percentage of loss inevitable.

Evacuation Programme gave Opportunity for Economic Profiteering

Where occupations had both White and Japanese persons, unfortunately a division on racial lines was promoted as a matter of historical tradition and each group eyed the other as competitor. This was the case in fishing, small fruit growing, and in the small retail trades. It was clearly evident to White groups that a competitive advantage could be gained by making use of war hysteria to eliminate the Japanese entirely from certain occupations. They would benefit from higher prices, the result of reduced supply caused by the removal of the Japanese from the industry and steadily increasing demand for products and services from improved economic conditions.

During the summer^{of} 1942 and 1943, certain White persons who had taken over Japanese berry farms for the season on short leases or purchase, organized the Berry Growers Protective Association and applied to the Government for a subsidy at a time when berry prices were their highest since the first World War. This is an example of the attitude of some sections of the general population at that time. Not content with reaping the benefit from the toil of Japanese berry farmers they wanted to live off the general taxpayer as well. In other fields, it has been freely reported that many articles were pilfered from fishing vessels while impounded. Skiffs and life-boats were stolen, net houses were broken into and nets, gear and equipment stolen or damaged. Automobiles left at designated points were stripped of tools and even inner tubes and tires were replaced by those of poorer quality.

The Custodian's policy to liquidate the holdings of persons of Japanese ancestry without reserve by public auction methods eliminated any possibility of the conditions required for a fair market value being applied. By no interpretation could the seller be classed as a willing seller; moreover, the sales being part of government policy of liquidation were, in effect, compulsory and were to be carried out regardless of price. The only willing person under the circumstances was the buyer who saw that all material conditions were fully weighted in his favour and he was in a position to take full advantage of them. Under the circumstances normal competitive bidding would be discouraged, and sales would be completed at abnormally low prices. The sale price by the Custodian could not, therefore, be regarded as the fair market price.

Problems in Property Management and Liquidation

It is apparent that under the foregoing conditions, Government policy in management and disposal of property did not give adequate and sufficient protection to the owners' interests. The primary function of a custodian is to conserve the assets of the owners. In this case it may be stated that this first function, due to the particular circumstances which obtained, was not successfully fulfilled. Aside from property sold directly by owners prior to the establishing of the Custodian's office, much property which should have been the responsibility of the Custodian was not adequately protected. In regard to household goods and movable property left in the homes before and after the Custodian assumed responsibility, insufficient protection was the cause of large quantities of valuable possessions being lost. In the sale of automobiles, unnecessary depreciation resulted from mishandling and lack of proper care. In addition, sale by auction without reserve, under conditions of forced liquidation, resulted in low-bidding and low prices. Boats and gear also received similar treatment in sales. Real property, businesses and equipment suffered a similar fate for the same reasons.

Some of the most serious examples of property loss and destruction are recorded in the reports of the auditors of the Custodian. They are now a matter of public record. The Proceedings of the Public Accounts Committee, May 8 to June 26, 1947, furnish further information on losses and damage to property.

The auditors for the Custodian, P. S. Ross and Sons, in their report of October 20, 1943, state:

"We understand that many requests have been received from evacuees to have shipped to them at their present address certain articles which, in some cases, have necessitated the unpacking of a carton or other container in order to locate the particular thing or things requested. We were also informed that storage places have on a number of occasions been broken into and containers ransacked, and as a result the belongings of one evacuee mixed with those of another, thus destroying means of identification of ownership with the office records"

Mr. Mathieu, assistant deputy custodian states in his report of January 15, 1947 (page 39):

"It is also true that a certain type of citizen considered the abandoned homes of evacuees an opportunity to engage in theft and vandalism which were in evidence in many cases before our field men or agents had an opportunity of taking charge .

"Even in the better class districts this was in evidence and perhaps an outstanding example may be given in connection with the property owned by the former Japanese consul in the Shaughnessy district of Vancouver. This house was under the control of the protective powers until the capitulation of Japan.

"At the time the property was handed over to us in December, 1945, Mr. K. W. Wright, counsel to the Custodian, and Mr. F. G. Shearn, director of our Vancouver office, inspected these premises with Mr. Baeschlin, representing the Swiss government. Every piece of plumbing had been removed, light fixtures and switches had been disconnected and taken away and even leaded glass doors and windows had been taken from their frames and were missing. This had occurred in one of the best districts of Vancouver and according to representatives of both the Spanish and Swiss authorities, the house had been broken into time after time even although it was boarded up after each depredation.

"Our own experience in regard to buildings which had been used for storage was somewhat similar to that of the Japanese consul's house. Breakings-in were frequent, entrance being made in some cases by the use of fire escapes, through windows which were boarded up or covered with a grill or through basement doors.

"It may be of interest to record that a building on East Hastings Street, registered in the name of a Japanese association and which certain Japanese had filled with chattels, was left by them in the care of Messrs. Norris and McLennan. Upon request for the shipment, through the Security Commission, of some of the contents of this building, we requested Mr. McLennan to accompany one of

our staff to the building for the purpose of selecting the goods required for shipment. Finding it impossible to open the front door, access was made through a rear entrance when it was discovered that thieves had entered by the front door and had then barred it from the inside with planks. The place had been ransacked, lids of boxes torn off and the entire contents scattered over the floor....."

Although these reports are undoubtedly familiar to Your Lordship, the above quotations are given at length because of their importance. It was partly as a result of the above information to Members of Parliament that the whole matter was referred to the Public Accounts Committee which undertook a thorough investigation of the terms under which Fraser Valley farm lands were sold to the Veterans Land Administration. This investigation revealed that agricultural lands were evaluated following Order-in-Council P.C. 5523 of June 29, 1942, at \$ 911,156.00, and sold for \$ 893,390.00 in the face of assessment values which totalled \$ 1,250,000.00. It is submitted that as a general practice in this area, assessed value is a determination selected for taxation purposes. In some cases, they were below original cost and in most cases certainly far below market value. Although this was a general policy in most municipalities the Veterans Land appraisals were 2 per cent and assessed values were as much as 40 per cent, above sale price.

The Proceedings of the Public Accounts Committee, May 12, 1947, at page 114, show that the spot valuations of the Advisory Committee to the Custodian of May, 1943, compared with assessed value and Soldier Settlement valuation for seventeen properties, as follows:

Soldier Settlement valuation	\$ 28,232.00
Assessed value	\$ 31,119.00
Advisory Committee valuation	\$ 43,100.00

The Advisory Committee valuations for the seventeen properties in this instance were 39 per cent above assessed value and 53 per cent above Soldier Settlement valuation. This will indicate that Soldier Settlement valuations were far too low.

On page 115 of the Proceedings, a list of forty-three properties

withdrawn from the Veterans Land Administration offer until matters of title were cleared, and subsequently advertised and sold by the Custodian, is given as follows:

Veterans Land Administration appraisal	\$ 39,571.00
Veterans Land Administration offer	\$ 38,876.00
Custodian appraisal	\$ 73,312.00
Custodian sale price	\$ 82,183.50

It is noted that the Custodian appraisal was 90 per cent and sale price was 112 per cent above the offer made by the Veterans Land Administration. This would indicate further that the Veterans Land Administration transaction was not made on the basis of free trading and fair market price. Therefore it is submitted that prices received from the sale of these farm lands should be examined with this condition in mind.

Furthermore, when the final offer from the Veterans Land Administration was lower than appraised value, all amounts were uniformly scaled down without attention to individual cases. In view of this administrative action, it cannot be stated that either the Advisory Committee to the Custodian, or the Custodian, had proceeded in the sale with a view to getting the owners a fair market price when entertaining offers from the Veterans Land Administration. Accruing losses to Japanese owners would, therefore, be substantial, and legitimate claims before the Commissioner will be for sizeable amounts.

Even in the case cited above, there is no indication that the \$ 82,000.00 total figure, the selling price of the Custodian was the fair market price. It is re-emphasized that the circumstances surrounding these cases would encourage low-bidding. Compulsory sales over the protest of owners would allow buyers to withhold high offers and yet acquire the desired property.

Sales of this type are unprecedented; there was no recourse to arbitration, nor any appeal to the courts as provided under the War Measures Act in cases of expropriation by the Crown.

PART III

EVALUATION OF PROPERTY

It is not intended here to discuss at length the technical legal aspects of the terms of reference of the Royal Commission, which it is felt, will be adequately and fairly dealt with by Your Lordship with the assistance of Counsel for the claimants and for the Government. We realize that the task of evaluating the losses suffered by the claimants is an extremely difficult one, requiring infinite patience and skill, and above all an appreciation of the human and economic aspects of this unprecedented forced movement. This work is not made easier by the emergency nature of the evacuation as described above or by the fact that six years or more have now elapsed since that time and that the claimants are now scattered in almost every province of the Dominion.

It is felt that the determination of "fair market value" under the terms of reference is an economic problem as well as a legal one, involving consideration of such factors as original cost, replacement cost, prospective earning power, general price levels, and the existence or non-existence of an open market free from compulsion. In order, therefore, that every claimant can be treated fairly we respectfully urge that as a minimum condition the factors set out below should be considered, depending on the type of property for which a claim is made.

(1) Urban Real Estate - Land

- a. Sales realization from adjacent parcels sold freely at about the same time.
- b. Assessed value of the specific parcel adjusted by the average relation of assessed value to the sale price for comparable parcels in the same or comparable locality.
- c. Earning value assuming the parcel is to be developed to the highest usefulness possible in its location.
- d. If the land is occupied by old buildings, the fact that present earnings may not be a good criterion of probable future earnings when the old buildings are replaced with

modern structures, perhaps designed for more appropriate uses from the point of view of the land location.

- e. Trend of market value of adjacent land as reflection of environment factors on probable future earnings.

(2) Urban Real Estate - Buildings

- a. Assessed value of buildings adjusted by the average relation of assessed value to the sale price of comparable buildings in the same or comparable locality.
- b. Original cost and replacement cost of buildings.
- c. Earning value based on past experience and prospects in the future.
- d. Evaluation of other pertinent factors such as exceptionally favourable leases, working capital employed in administration of building, nearby developments which affect the value, etc.

(3) Farms

- a. General level of farm values from recent sales records of comparable farms in same locality.
- b. Original cost, depreciation, and replacement cost of buildings and other fixed improvements.
- c. A farm being both a productive unit and a home, a number of special factors to be given careful consideration in each individual case: e.g.,
 - i. kind of crops that can be grown advantageously on the soil.
 - ii. extent to which fertility of the soil has been depleted or built up.
 - iii. character of road system serving the farm.
 - iv. accessibility of markets for each possible crop.
 - v. annual rainfall or source and cost of irrigation water.
 - vi. nature and abundance of water for stock and domestic use.
 - vii. adequacy of natural and artificial drainage.
 - viii. character and adequacy of fences.
 - ix. accessibility or approach of rural electric lines.
 - x. aesthetic setting of the farm home.
 - xi. annual tax rate.
 - xii. social character of the neighbourhood.
 - xiii. educational facilities available.
 - xiv. alternative uses to which all or part of the farm could be put.

- xv possibility of future revenue producing activities of importance, such as site for waterfront development, highway, powerline, tourist resort, etc.

(4) Business Enterprises

- a. Original cost and replacement cost of physical assets (buildings, machinery, equipment and land).
- b. Historical and reproduction preliminary-expense value: This includes the fair capital allowance for the necessary expenses incurred in the organization and promotion of the enterprise.
- c. Going-concern value: The element of value in an assembled and established business doing business and earning money, in comparison with one not thus advanced. The value element is the present worth of the near-future earnings of the going plant during the period required to duplicate the enterprise and place it in operation.
- d. Goodwill value: This is something different from going-concern value. It was succinctly stated by Lord Eldon in 1810 as "the probability that the old customers will resort to the old place". The unit of measurement of goodwill value is one-year's purchase of the excess of the profits of the business over reasonable interest on the fair value of the property. The number of years by which the unit value is multiplied in individual cases depends on the kind of business involved.
- e. Other intangibles: These may include favourable leases, contracts, options, trade secrets, trade names, patent rights, copyrights, etc. where they are present.

(5) Fishing Vessels and Gear

About the same list of possible elements of value exist as noted above for other business enterprises. In addition, a factor of great importance in 1942-43 was the practical impossibility of replacing these physical assets under the existing conditions of very short supply.

(6) Automobiles, Radios, Cameras, and Firearms

- a. Replacement cost.
- b. W.P.T.B. price ceilings.

(7) Household Chattels and Other Personal Property

- a. Replacement cost.
- b. Intrinsic and sentimental value not replaceable.

PART IV

CONCLUSION

This submission has been concerned with drawing to the attention of Your Lordship certain background material which we believe is directly relevant to the issue under consideration by your Commission. It would appear that in spite of careful, painstaking investigation and deliberation, many practical and imponderable difficulties stand in the way of achieving a precision of just and reasonable awards. In the alternative, we respectfully suggest a broad appreciation of all the circumstances which shaped the problem into its present form is fully merited.

The first part of our submission has sketched the historical background of Japanese immigration into Canada, noting the conditions of their early arrival and employment in this country. In common with most immigrant groups, their's was a struggle over the years to establish economic security. In this struggle they were motivated not merely by individual self-interest, but even more important by the fact that the immigration of women had brought about a fairly balanced population and a family structure was rapidly built up. Homes were necessary for families. And growing numbers of immigrant fathers sought stability of income and employment, as well as a necessary advance in economic status. In general this provided a strong motivating force to accumulate savings and to establish self-owned enterprises whenever possible.

By the end of the first four decades of the century, the immigrants from Japan, first generation fathers and mothers, were reaching an established status in years, and large numbers of their Canadian-born children were achieving maturity. These joined the ranks of productive workers, and family income in the years immediately preceding the evacuation of 1942 increased rapidly. Increased income led in turn both to acquisition of durable consumer goods such as home furnishings,

radios, electrical appliances, automobiles and chattels, which Canadian-educated children looked upon as necessities; and to increased investment in capital goods such as improved housing, larger farm acreage, farm equipment, expanded commercial premises, and fishing vessels and gear. An overall conclusion was that the standard of living of the immigrant group was rising rapidly, not only because of improved economic conditions, but also because of the advancing productivity of the people themselves.

The second part of our submission has reviewed the course of evacuation policy, noting particularly how the problem of property management and subsequent disposal was thus influenced. The first programme adopted by the Federal Government was a moderate one, contemplating the exclusion from the "protected area" only of male enemy aliens between the ages of 18 and 45 years. But public pressure led over the course of a brief six weeks to the adoption of far more extreme measures, the carrying out of which imposed an extremely heavy burden upon unprepared administrative agencies of the Government. Particularly was this true of the Custodian's Office which was suddenly called upon to provide for the effective management and control of all the real and personal property of 21,000 people scattered up and down several hundred miles of British Columbia coastline. Moreover, when wholesale evacuation was first initiated, it was not looked upon as a permanent movement. For this reason neither the evacuees themselves, nor the Government itself, realized that extensive precautions were necessary for the protection and preservation of their property.

Not least of all the actual mechanics of the evacuation contributed to extensive losses. In many cases only very brief notice to move was given, necessitating hasty and precipitate action. With no storage facilities, and with restrictions on baggage permitted for transport out of the protected zone, large quantities of personal property was stored under makeshift arrangements. Possessions could

not be taken to the Hastings Park Clearing Station in Vancouver, to the Interior Towns, to sugar beet farms, road camps or internment camps, but often had to be left behind to an indefinite future. The overall picture was one of a large group of people engulfed in a crisis beyond their control. Confusion, rumour and counter rumour, doubt and dismay were acute psychological characteristics which precluded rational behavior. The Government itself was unable to offer adequate mechanical facilities to meet the confusion of the emergency situation, or to give needed encouragement and advice.

However, concerned the Custodian's Office actually was in protecting evacuee property, substantial losses were inherent in the entire situation. Reports of the auditors for the Custodian indicate that theft and vandalism of the property were not uncommon in the City of Vancouver. It is likewise indicated that real and personal property in the outlying areas and isolated camps, as well as in the farming areas of the Fraser Valley were subject to equal, if not greater, destruction and theft. In the actual process of liquidation, a wholly abnormal and unprecedented situation was created. When goods and chattels were sold at continuing public auctions, it was clear that the normal conditions of free trading did not apply. Because it was known that liquidation would be effected without reserve, bidding could not be described as competitive, and auctioneers, working on a commission basis with minimum prices, tended to seek rapid disposal of goods in large quantities rather than adequate unit prices. The Proceedings of the Public Accounts Committee contain information which indicates that transactions between the Custodian and the Veterans Land Administration in regard to Fraser Valley farm lands were not resolved on a basis of "fair market value." Nor can the wholesale liquidation of a large number of urban holdings within a short space of time be regarded as a normal procedure guaranteed to maintain the property rights of the owners.

In the third section of our submission, we have attempted respectfully to suggest to Your Lordship some of the considerations

entering into the problem of valuation as being of concern to the evacuee claimants. It would appear that many relevant questions, including prospective earning power, are involved in the determination of value. Conditions and approaches differ with the different classes of property, compelling a wide economic review. The needs of property valuation are, we most earnestly submit, of a very broad nature which find their parallel in the comprehensive appraisal of all the many varied factors involved in wartime evacuation.

Respectfully submitted,

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November twelfth, Nineteen hundred and forty-eight.