

MEMORANDUM

on

JAPANESE FISHING VESSELS

by

J.W.G. HUNTER, Esq.

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.

(b) 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 1,337 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.

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(a) Initial Sales-January 28 to February 28, 1942

Much of this time was taken up sorting the vessels and making for inspection. Also the

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.

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.

In the latter part of May it became evident to the Committee that certain Japanese groups wished to retain ownership of their vessels and leave it to 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 resolution:—"When a bona fide offer to purchase a vessel

requirement 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."

Fisheries Limited, adopted the plan. This company took over 52 vessels, 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 much 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

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"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."

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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. 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 vessels 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

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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 4 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

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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 Aug., but I have not received any reply to my wire to Ottawa. I will advise you if and when a reply is received. Your cooperation 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 18 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

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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;"
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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.

(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."

The words show that anything "disposed of" by the Committee shall not vest in

(6) 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".

(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.

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. I 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.

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

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The words "shall . . . be" indicate a gradual vesting since immediate vesting are "are hereby". All unfinished business in vessels or equipment vest pursuant to these Regulations.

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Fraser River moorings", and 16 at Prince Rupert.

As will be recalled earlier, in the 3rd phase 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 regularized 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.

In a letter dated 3 August, 1942, from Department of Fisheries to Mr. McMaster, they advised that the matter had 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 of 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:-

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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 then give a bill of sale from the Custodian.

There are the following objections to this:-

- (1) The Committee had already sold, handed over the vessel and received the money.
- (2) The sales 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:-

- (1) If the vessels or the unfinished business in relation thereto had vested in Custodian, and "vested" shall be interpreted to mean "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.

(3) The Custodian had no power of sale in any event.

What then was the position insofar as regularization was concerned after 1 August, 1942?

It simply appears 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, 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.

The amendment corrects points (2) and (3) but does not change (1). That is, it still only vested

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The amendment corrects points

but does not change (1). That is,

undisposed of vessels in Custodian. It gives a power
of sale for same 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 in-
ferred. 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" 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 hither-
to gleaned, examine the facts relating to the sale of
some 43 boats, most of which had been previously re-

quisitioned 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?"

It will be the submission of the Government that these vessels were disposed of by the J.F.V.D.C., and not by 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. 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.S.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 at a later date, may be a debatable point. It is also germane to

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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 vessels in the Custodian. It was intended reasons therefore, the problems, and the sequence of events.

Let us, in the light of the to be examined, examine the facts relating to some 43 boats, most of which had

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 of 43 vessels, 27 for R.C.N., 6 for R.C.A.F. and 10 for R.C.A.S.C.

By a letter dated 14 July, 1942, Department of Munitions and Supply advised the J.F.V.D.C. that they had been requested to negotiate for the purchase of six formerly impounded vessels requisitioned through R.C.N. The letter then gives particulars of said vessels and asks the J.F.V.D.C. to advise as soon as possible the lowest price at which each of these vessels can be purchased.

In a reply dated 16 July, 1942, J.F.V.D.C. gives Lloyd's appraisal price on these vessels and then states, "We are taking the question of sale up with the owners, and as soon as we have made any progress, we will communicate with you. Kindly remember that it will take us some time to get in touch with each owner".

By a letter dated 18 July, 1942, Department of Munitions and Supply to J.F.V.D.C. the latter is advised R.C.N. wishes to purchase the 27 vessels already requisitioned and that R.C.N. has requested that Munitions and Supply negotiate through J.F.V.D.C. for outright purchase of these boats. "Would you therefore advise as to what, in your opinion, would be a fair and reasonable price for each of these

dispositioned 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?

It will be the admission of the Government that these vessels were disposed of by the J.F.V.D.C., and not by the Custodian. It is further admitted that the property 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.

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.S.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 charter party would be worked out later. This effect and stating that the details of such correspondence is to be considered expression of intention to make a charter agreement to make a charter party, or with the details to be agreed upon may be a debatable point. It is

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vessels".

By letter dated 22 July, 1942, J.F.V.D.C. acknowledged Munitions and Supply letter of 18th and adds that a number of "Japanese owners prefer that these boats remain on a chartered basis hoping that their vessels will be returned to them after the war". They will write more fully during next few days.

In a letter dated 31 July, 1942, Mrs. Tami Oye, owner of "Chatham S", advises Kimura of J.F.V.D.C. that she will accept \$1650.00 for her boat and will under no circumstances accept less.

By telegram dated 31 July, 1942, E. Koyama, owner of "Evergreen I" 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.

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 Hattat VII) wants \$12,500.00 being \$2250.00 over surveyed price, and asks for instructions to negotiate about later.

Similar letter of even date re R.C.A.F. boats

By letter 22 August, 1942, Canadian replies

advising two boats available at surveyed price and one owner wants \$200.00 more and asking for instructions.

Wire 12 August, 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 others at surveyed price.

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:-

Name	Reg.No.	Lloyd's Surveyed Price
"Chamiss Bay"	154926	\$10,800.00
"Departure Bay"	153296	\$ 7,500.00
"Merry Chase"	155235	\$11,250.00
"Moresby III"	153050	\$ 5,850.00
"Departure Bay II"	104660	\$12,500.00

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

By letter 22 August, 1942, Custodian replies

"vessels".

By letter dated 22 July, 1942, J.F.V.D.C.

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that their vessels will be returned to them after

the war". They will write more fully during next

few days.

In a letter dated 31 July, 1942, Mrs. Tami

Oye, owner of "Chatham 2", advises Kimura of J.F.V.D.C.

that she will accept \$150.00 for her boat and will

under no circumstances accept less.

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will accept \$3750.00 for his boat.

By telegram dated 31 July, 1942, T. Imai,

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surveys price, and asks for instruction

about latter.

Similar letter of even date

advancing two boats available at surveyed price and one owner wants \$200.00 more and asking for instant-
toms.

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

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

Letter 7 August, 1942, received 12 August, 1942, advises J.T.V.D.C. that Subvyns 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.T.V.D.C. finds that five of the vessels wanted by Navy are under jurisdiction of Custodian. The boats are:-

Name	Ref. No.	Surveyed Price	Lloyd's
"Chambers Bay"	151926	\$10,800.00	
"Departure Bay"	152386	\$7,500.00	
"Merry Chase"	152332	\$11,250.00	
"Moresby III"	153050	\$5,000.00	
"Departure Bay II"	104660	\$12,000.00	

In a letter of 19 August, 1942, gested to Custodian that Lloyd's surveyed fair and asking for concurrence in sale. By letter 22 August, 1942,

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".

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 a 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.

There is a mass of correspondence between J.F.V.D.C. and Munitions and Supply relating to the

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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 cheques from Treasury sent to J.F.V.D.C. coming down from Ottawa. They were

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.:

"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, on 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 be-
lieved 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 assented 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.

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missioner appears to have had no hand in the affair
and apparently signed no Bills of Sale.

EXHIBIT "A".

P. C. 6247

That the Committee is of the opinion, after con-
sideration of all factors involved, that responsibility
for administration of remaining boats and equipment
Order in Council authorizing that boats and equipment owned
by persons of the Japanese race, be vested in and subject to
the control of the Custodian of Enemy Property.

P. C. 6247

AT THE GOVERNMENT HOUSE AT OTTAWA
MONDAY, the 20th day of JULY, 1942

PRESENT:

His Excellency the Governor General
in Council, on the recommendation of the Minister of Fisheries,
concurred in by the Secretary of State and under and by
virtue of the powers conferred by the War Measures Act,
HIS EXCELLENCY
THE GOVERNOR GENERAL IN COUNCIL:

WHEREAS the Minister of Fisheries reports that by
virtue of the authority of Order in Council of December 16th,
1941, P.C. 9761, vessels used or operated by persons of the
Japanese race within waters adjacent to the West Coast of
Canada were seized and detained;

That under the supervision of the Committee, under
the Chairmanship of Honourable Justice Sidney A. Smith of
Vancouver, appointed by Order in Council of January 13th,
1942, P.C. 288, for the disposal of vessels and equipment
so seized and detained, 1,027 vessels of a total of 1,265
vessels registered with the Committee have been disposed
of;

That under its terms of reference the Committee
so organized the disposal arrangements to first assure that
boats and equipment would be available to the British Columbia
fishing industry as might be needed to maintain essential
fisheries production;

That the Committee has reported having achieved
this objective up to the point where little further absorption
may be immediately expected by the British Columbia fishing
industry excepting such vessels as may be disposed of in
the course of the next two or three weeks.

That pursuant to the duty attached to its appoint,-

To report on steps that should be taken to dispose
of vessels which the present owners are unable to sell,
charter, lease or otherwise transfer, the Committee has
reported that while the market has not yet been com-
pletely exhausted, the bulk of the remaining 238 vessels
will have to be stored for a considerable period par-
ticularly as in general, the best vessels have already
been disposed of;

(sgd) A.D.P. Heeney

Clerk of the Privy Council.

Order in Council authorizing that boats and equipment owned by persons of the Japanese race, be vested in and subject to the control of the Custodian of Enemy Property.

P. C. 6247

AT THE GOVERNMENT HOUSE AT OTTAWA
MONDAY, the 20th day of JULY, 1942

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL:

WHEREAS the Minister of Fisheries reports that by virtue of the authority of Order in Council of December 16th, 1941, P.C. 9761, vessels used or operated by persons of the Japanese race within waters adjacent to the West Coast of Canada were seized and detained;

That under the supervision of the Committee, under the Chairmanship of Honourable Justice Sidney A. Smith of Vancouver, appointed by Order in Council of January 13th, 1942, P.C. 288, for the disposal of vessels and equipment so seized and detained, 1,027 vessels of a total of 1,265 vessels registered with the Committee have been disposed of;

That under its terms of reference the Committee so organized the disposal arrangements to first assure that boats and equipment would be available to the British Columbia fishing industry as might be needed to maintain essential fisheries production;

That the Committee has reported having achieved this objective up to the point where little further absorption may be immediately expected by the British Columbia fishing industry excepting such vessels as may be disposed of in the course of the next two or three weeks.

That pursuant to the duty attached

To report on steps that should be taken of vessels which the present owners are charter, lease or otherwise transfer, the reported that while the market has not yet fully exhausted, the bulk of the remaining will have to be stored for a considerable time as in general, the best vessels have been disposed of;

P. C. 6247

That the Committee is of the opinion, after consideration of all factors involved, that responsibility for administration of remaining boats and equipment might logically be turned over to the Custodian of Enemy Property, who is now administering other properties of persons of the Japanese race in British Columbia; and

That it is important that personnel of the Department of National Defence for Naval Services, presently employed in the care and maintenance of the remaining vessels, should be released for urgent duties elsewhere at the earliest possible moment;

NOW THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Minister of Fisheries, concurred in by the Secretary of State and under and by virtue of the powers conferred by the War Measures Act, Chapter 206, Revised Statutes of Canada 1927, is pleased, notwithstanding anything contained in the Regulations established by Order in Council of March 4th, 1942, P.C. 1665 as amended by Order in Council of March 27th, 1942, P.C. 2483, to order and it is hereby ordered as follows:

1. As a protective measure only all vessels and equipment seized and detained under the authority of Order in Council of December 16th, 1941, P.C. 9761, which have not been disposed of under the supervision of the Committee appointed by Order in Council of January 13th, 1942, P.C. 288, shall on and after August 1st, 1942, be vested in and subject to the control and management of the Custodian, as defined in the Consolidated Regulations Respecting Trading with the Enemy, (1939); provided, however, that no commission shall be charged by the Custodian in respect to such control and management.

2. For the purpose of the control and management of such property by the Custodian, the Consolidated Regulations Respecting Trading with the Enemy, 1939, shall apply mutatis mutandis, to the same extent as if the property belonged to an enemy within the meaning of the said Consolidated Regulations.

3. All unfinished business of such Committee in respect of any vessels or equipment vested in the Custodian pursuant to these Regulations, shall on and after August 1st, 1942, be transferred to the Custodian.

4. Such arrangements as will make it possible for the present owners of any vessels or equipment vested in the Custodian pursuant to this Order to freely negotiate for charters, leases or sales of such vessels and equipment as they own to persons other than those of Japanese origin, shall be made by the Custodian, provided that the Custodian approves of such charters, leases or sales, which approval shall be a prerequisite for the use of such vessels and equipment in any capacity.

(sgd.) A.D.P. Heeney

Clerk of the Privy Council.

Order in Council revoking P.C. 5523, dated 29th June, 1942 and P.C. 6885, dated 20th July, 1942 - transfer to the Custodian of the property of persons of the Japanese race evacuated from the protected areas of B.C.

P.C. 469

AT THE GOVERNMENT HOUSE AT OTTAWA
TUESDAY, the 19th day of JANUARY, 1943.

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL -

WHEREAS by Order in Council dated 29th June, 1942, (P.C. 5523) amended by Order in Council dated 4th August, 1942, (P.C. 6885) Regulations were made imposing certain duties and responsibilities on the Director of Soldier Settlement of Canada in relation to agricultural lands owned by persons of the Japanese race ordinarily resident in the protected areas of British Columbia;

AND WHEREAS the Secretary of State reports that the appraisals of lands contemplated by the said Order in Council as amended have been made and that it is the opinion of the Minister of Mines and Resources, to whom the Director of Soldier Settlement of Canada reports under the said Order in Council as amended, that the said Order in Council as amended, should be revoked;

That by Order in Council, dated 20th July, 1942, (P.C. 6247) it was provided that on and after the 1st August, 1942, all unfinished business of the Committee under the Chairmanship of the Honourable Mr. Justice Sidney A. Smith of Vancouver, appointed by Order in Council of 13th January, 1942, (P.C. 288) in respect of vessels or equipment vested in the Custodian under the said Order should be transferred to the Custodian, and the Custodian was vested with all vessels and equipment which had not been disposed of under the supervision of the said Committee;

That since the transfer was effected, question has been raised as to the authority of the Custodian to deal with unfinished business of the said Committee in relation to vessels or equipment disposed of prior to the 1st August, 1942, and it is expedient to remove any doubts in this respect;

That by Orders in Council relating to the property of persons of the Japanese race evacuated from the protected areas of British Columbia, the Custodian has been vested with the responsibility of controlling and managing property belonging to persons of the Japanese race who

However, under Orders in Council under the War Measures Act, Chapter 206 of the Revised Statutes of

That the Committee is of the opinion, after consideration of all factors involved, that responsibility for administration of remaining boats and equipment might logically be turned over to the Custodian of Enemy Property, who is now administering other properties of persons of the Japanese race in British Columbia; and

That it is important that personnel of the Department of National Defence for Naval Services, presently employed in the care and maintenance of the remaining vessels, should be released for urgent duties elsewhere at the earliest possible moment;

NOW THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Minister of Fisheries, concurred in by the Secretary of State and under the virtue of the powers conferred by the War Measures Act, Chapter 206, Revised Statutes of Canada 1927, is pleased, notwithstanding anything contained in the Regulations established by Order in Council of March 14th, 1942, P.C. 1665 as amended by Order in Council of March 27th, 1942, P.C. 2483, to order and it is hereby ordered as follows:

1. As a protective measure only all vessels and equipment seized and detained under the authority of Order in Council of December 16th, 1941, P.C. 2761, which have not been disposed of under the supervision of the Committee appointed by Order in Council of January 13th, 1942, P.C. 288, shall on and after August 1st, 1942, be vested in and subject to the control and management of the Custodian, as defined in the Consolidated Regulations Respecting Trading with the Enemy, (1939); provided, however, that no commission shall be charged by the Custodian in respect to such control and management.

2. For the purpose of the control and management of such property by the Custodian, the Consolidated Regulations Respecting Trading with the Enemy, 1939, shall apply mutatis mutandis, to the same extent as if the property belonged to an enemy within the meaning of the said Consolidated Regulations.

3. All unfinished business of such Committee in respect of any vessels or equipment vested in the Custodian pursuant to these Regulations shall on and after August 1st, 1942, be transferred to the Custodian.

4. Such arrangements as will make the present owners of any vessels or equipment vested in the Custodian pursuant to these Regulations free to negotiate for charter, lease, or other than those of Japanese origin, by the Custodian, provided that the proves of such charter, lease or other shall be a prerequisite for vessels and equipment in any capacity.

(sgd) A.D.P. H.

Clerk of the

P. C. 469

have been evacuated from the protected areas, except deposits of money, shares of stock, debentures, bonds or other securities or other property which the owner on being evacuated from the protected areas was able to take with him; and

That the evacuation of persons of the Japanese race from the protected areas has now been substantially completed and that it is necessary to provide facilities for liquidation of property in appropriate cases.

THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Secretary of State, concurred in by the Minister of Mines and Resources, the Minister of Pensions and National Health, the Minister of Labour and the Minister of Fisheries, and under the authority of the War Measures Act, Chapter 206 of the Revised Statutes of Canada, 1927, is pleased to order and doth hereby order as follows:

1. Order in Council, dated 29th June, 1942, (P.C. 5523) and amending Order in Council dated 4th August, 1942, (P.C. 6885) are hereby revoked.

2. Paragraphs numbered 3 and 4 in Order in Council dated 20th July, 1942 (P.C. 6247) are hereby rescinded and the following are substituted therefor:

3. The Custodian may, where he considers it advisable so to do, liquidate, sell or otherwise dispose of any such vessel or equipment on such terms and conditions as he deems advisable; and any agreement entered into or document executed by the Custodian on or after August 1, 1942, and prior to the date of this Order, purporting to be an agreement for, or to be, a transfer, conveyance or other disposition of any such vessel or equipment or of any right, title or interest therein is hereby given full legal validity, force and effect as if the Custodian had full power to enter into such agreement or to execute such document, and as if such vessel or equipment or such right, title or interest therein, as the case may be, had been vested in the Custodian, at the time of the entry into such agreement or the execution of such document.

4. Without restricting the generality of the powers hereinbefore conferred, all unfinished business of the said Committee is hereby transferred to the Custodian and shall be deemed to have been so transferred as on and from the 1st August, 1942.

Wherever, under Orders in Council under the War Measures Act, Chapter 206 of the Revised Statutes of

in Council revoking P.C. 5523, dated 29th June, 1942, and P.C. 6885, dated 20th July, 1942 - transfer to the Custodian of the property of persons of the Japanese race evacuated from the protected areas of P.C.

P.C. 469

AT THE GOVERNMENT HOUSE AT OTTAWA

TUESDAY, the 19th day of JANUARY, 1943.

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL -

WHEREAS by Order in Council dated 29th June, 1942, (P.C. 5523) amended by Order in Council dated 4th August, 1942, (P.C. 6885) Regulations were made imposing certain duties and responsibilities on the Director of Soldier Settlement of Canada in relation to agricultural lands owned by persons of the Japanese race ordinarily resident in the protected areas of British Columbia;

AND WHEREAS the Secretary of State reports that the appraisals of lands contemplated by the said Order in Council as amended have been made and that it is the opinion of the Minister of Mines and Resources, to whom the Director of Soldier Settlement of Canada reports under the said Order in Council as amended, that the said Order in Council as amended, should be revoked;

That by Order in Council, dated 20th July, 1942, (P.C. 6247) it was provided that on and after the 1st August, 1942, all unfinished business of the Committee under the Chairmanship of the Honourable Mr. Justice Henry A. Smith of Vancouver, appointed by Order in Council, 15th January, 1942, (P.C. 288) in respect of vessels or equipment vested in the Custodian under the said Order should be transferred to the Custodian, and the Custodian should be vested with all vessels and equipment which had not been disposed of under the supervision of the said Committee;

That since the transfer was effected as to the authority of the Custodian with unfinished business of the said Committee in relation to vessels or equipment disposed of on or after August, 1942, and it is expedient to remove this respect;

That by Order in Council relating to persons of the Japanese race evacuated from the protected areas of British Columbia, the Custodian is hereby transferred to the Custodian and shall be deemed to have been so transferred as on and from the 1st August, 1942.

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Canada 1927, the Custodian has been vested with the power and responsibility of controlling and managing any property of persons of the Japanese race evacuated from the protected areas, such power and responsibility shall be deemed to include and to have included from the date of the vesting of such property in the Custodian, the power to liquidate, sell, or otherwise dispose of such property; and for the purpose of such liquidation, sale or other disposition the Consolidated Regulations Respecting Trading with the Enemy (1939) shall apply mutatis mutandis as if the property belonged to an enemy within the meaning of the said Consolidated Regulations.

Certified to be a true copy.

A.D.P. Heeney.

Clerk of the Privy Council.

been evacuated from the protected areas, except for money, shares of stock, debentures, bonds or securities or other property which the owner on being asked from the protected areas was able to take with him.

That the evacuation of persons of the Japanese race from the protected areas has now been substantially completed and that it is necessary to provide facilities for the evacuation of property in appropriate cases.

WHEREFORE, His Excellency the Governor General, on the recommendation of the Secretary of State, and the Minister of Finance and Resources, and the Minister of National Health, the Minister of the War Measures Act, Chapter 206 of the Revised Statutes of Canada, 1927, is pleased to order and both order as follows:

1. Order in Council, dated 29th June, 1942, (P.C. 6885) and amending Order in Council dated 4th August, 1942, are hereby revoked.

2. Paragraphs numbered 3 and 4 in Order in Council dated 20th July, 1942 (P.C. 6847) are hereby revoked and the following are substituted therefor:

3. The Custodian may, where he considers it advisable so to do, liquidate, sell or otherwise dispose of any such vessel or equipment on such terms and conditions as he deems advisable; and any agreement entered into or document executed by the Custodian on or after August 1, 1942, and prior to the date of this Order, purporting to be an agreement for, or to be, a transfer, conveyance or other disposition of any such vessel or equipment or of any right, title or interest therein is hereby given full legal validity, force and effect as if the Custodian had full power to enter into such agreement or to execute such document, and as if such vessel or equipment or such right, title or interest therein, as the case may be, had been vested in the Custodian, at the time of the entry into such agreement or the execution of such document.

4. Without restricting the generality of the powers heretofore conferred, all unfinished business of the said Committee is hereby transferred to the Custodian and shall be deemed to have been so transferred as on and from the 1st August, 1942.

Wherever, under Orders in Council under the War Measures Act, Chapter 206 of the Revised Statutes of