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Glenn McPherson's Fonds

Correspondence, memorandums, newspaper clippings, 1939-1948, 1985

FOLDER No. 2-7

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Report re Japanese Property Claims Commission

In accordance with the instructions received, I proceeded to Vancouver and arranged to accompany Mr. Justice Bird across Canada hearing the Japanese claimants. I arrived in Vancouver on January 29th.

On my arrival I contacted and had discussions with the Commissioner, Mr. Justice Bird, Government Counsel, Mr. Hunter, and your director, Mr. Shears. Subsequently I proceeded to Kamloops and attended one week of sittings there, accompanied by Mr. Shears, and I then returned to Vancouver and Mr. Shears proceeded with the Commission to Vernon. The purpose of my return to Vancouver was to put into effect certain plans that had developed as a result of my discussions and my seeing the Commission in action. Subsequently, with the return of Mr. Shears to Vancouver, I proceeded to Grand Forks and Nelson and attended the sessions of the Commission at those points.

It was only at the end of the Nelson sittings last week that Mr. Justice Bird was finally able to arrive at a definite programme for the balance of the sittings which he will hold across Canada before the first of July and for the sittings which the sub-commissioners will hold in the interior of British Columbia. As a result of studying the work of the Commission for the past two months, I made certain suggestions to Mr. Justice Bird, Mr. Hunter and Mr. Shears, some of which have been adopted and are referred to below.

Mr. Shears is proceeding to Lethbridge on Saturday night and will be attending the opening of the Commission there on Monday, March 22nd. He will also proceed east with the Commission. The covering letter to this report explains why I am not accompanying the Commission as planned and I request further instructions.

For the purpose of convenience, I have divided this report into four parts:-

1. The Commission.

- (a) Mr. Justice Bird is indeed a happy choice as Commissioner. There is no doubt that his manner of conducting the hearings and insisting that all information contained in Government files be supplied to the claimants, and the wide latitude given in the presentation of evidence has convinced both the claimants and their counsel that the Commissioner is anxious to assist them in every way possible in presenting their claims.
- (b) Counsel for the claimants, with particular reference to Mr. McMaster, have been exceedingly co-operative and fair in the presentation of



evidence, and are not so antagonistic to the Custodian's administration as one might reasonably have expected.

(c) Government Counsel, Mr. Hunter, is faced with a difficult task. He is at a great disadvantage in having undertaken approximately 1400 defences, and having to indicate at the present hearings what the line of defence will be, before he has had any real opportunity to become thoroughly familiar with the Custodian's policy and administrative practice. During the last few weeks it appears that he has obtained a fairly good grasp of the situation and is now in a better position to indicate the defence and cross-examine the witnesses. In my opinion he is doing excellent work, and the Government's defence is in capable hands.

(d) Mr. Shears has been rendering yeoman service to Mr. Hunter, and at the same time has been faced with the difficult problem of organizing the very small staff in the Custodian's Vancouver office to prepare the claim files on time so that the Commissioner's ambitious programme for his own sittings and for the sub-commissions in British Columbia can be carried out. To one who has some little knowledge of the complexities of the problem of administering the evacuees' property and the difficulty of appreciating the reasons behind the policy which was adopted, and getting these ideas across both to the Commissioner and to Government counsel, I have nothing but praise and admiration for the work done by Mr. Shears.

## 2. Custodian's Vancouver Office.

When the Commission was established, the Custodian's staff was definitely caught at a disadvantage due to no fault of Mr. Shears. Mr. Shears in accordance with instructions from Ottawa, had consistently reduced staff, and there are only ten executives out of a staff of twenty-five. These executives were busy putting the files in administrative order, which it will be appreciated, is entirely different than extracting information from them for the purpose of answering claims.

Mr. Shears re-organized the office on the basis that the executives, taking the claim form filed by the Japanese evacuee, would extract from the master files such information as might support or refute the claim, placing this information on a special file called the "claim file". It was originally intended that these files would be for the use of Government counsel. but it was found that the methods of evacuation and the speed had

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prevented the evacuees from keeping any real record of the property they left in the protected area, or what had happened to such property. This information was considered by the Commissioner to be essential for the proper presentation of claims, and Mr. Shears was instructed to make the Custodian's claim file available to counsel for the claimants.

Mr. Shears was also faced with the problem of preparing sufficient claim files to keep the Commissioner and all of the sub-commissioners sitting simultaneously. Because of the size of the master or administration files, it has been found that an executive reviewing the files can average about one a day, and in fact, experience has shown that the average <sup>for the office</sup> is approximately 35 files a week. It will of course be appreciated that the current administrative work is continuing simultaneously. Once the Commission had obtained some experience, it was found that as high as nine cases a day and an average of about six, could be dealt with. It followed that while the office had had an opportunity of preparing a small backlog of files during the weeks of organization of the Commission, it would be impossible to supply the main Commission and all the sub-commissions if they sat simultaneously. Mr. Shears and I considered this situation and after several conferences with Mr. Justice Bird, convinced him that the best the Custodian's organization could do was to keep his Commission supplied with files as he proceeded across Canada, and the sub-commissioners in the interior of British Columbia, provided such sub-commissioners sit consecutively. We also advised the Commissioner that there was no possibility of the present staff of the Custodian's office supplying material before the 1st of September for any sub-commissioners east of British Columbia. Mr. Justice Bird appreciated the situation and it has now been agreed that the sub-commissioners east of British Columbia will not commence sittings before fall and the British Columbia sub-commissions will commence on April 21st at Vernon and sit consecutively.

In the case of British Columbia sittings it is now necessary for someone to brief four local counsel as well as to supply these counsel with complete copies of the Orders-in-Council and regulations relating to the administration of evacuee properties. Government counsel, owing to the pressure of work with the main Commission has not been able to brief these counsel, and has requested that a Custodian's representative should attend the opening sessions of each sub-commission. Mr. Shears,

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having in mind that the supplying of claim files to the Commissioner, should take precedence, is reluctant to disrupt the organization of the Vancouver office to do this, but he will make every effort to see that sub-commission counsel are briefed.

With respect to the claims filed by corporations which are to be heard in Vancouver, commencing possibly in September when the defence is also to be presented, no work is being done in the preparation of claim files at this time.

With respect to the sales made to the Director of the Veterans' Land Act, there is considerable work to be done before Government counsel will be in any position to defend the agreement made.

With respect to the briefing of local counsel, preparation of the defence in the case of the corporations and the sales of the Veterans' Land Act, it has been suggested that I should undertake this work, and my letter attached to this report indicates my views in this matter. It also indicates the importance of these claims which total approximately 50% of the value of all claims filed.

### 3. Mr. Justice Bird's Commission in Operation.

The first three weeks of hearings indicated the necessity of stream-lining the procedure of taking evidence if the Commission was to complete its work in any reasonable time. As a result of conferences in Vancouver in January and early February before the Commission returned to Kamloops, certain steps in this direction were taken, and the work of the Commission is certainly proceeding with greater rapidity than in the past.

The claimants' counsel have a field man who takes the Custodian's claim file and interviews the claimants before the hearing. After the claimants have seen the information that the Custodian has on file, amendments are usually made to his claim. The amended claim is submitted to Government counsel the night before the claim is being heard and at that time the Custodian's claim file is delivered to him. This is the first time that Government counsel sees the claim file. It will be appreciated that Government counsel must spend almost every evening reviewing the files and the amended claims in order that he will be in a position to cross-examine



the claimant and the witnesses the following day. There is no doubt that in the majority of cases the claimants have not complied with the advertisement calling for claims. There is also no doubt that because of the fact that the evacuees themselves kept practically no record, their claims have been prepared from memory and it is only after examining the Custodian's claim file that they are in a position to definitely state what they are claiming for. While it is obvious that the Custodian's staff are doing a lot of work that would be unnecessary if proper claims were filed in the first instance, it is also true that the claims are being considerably reduced as a result of information obtained by the claimants' counsel from the Custodian's files. It has become apparent that many amendments would not have been made if the Custodian's claim files had not indicated that the Custodian had evidence establishing that the claim was not entirely bona fide. I found this situation rather disturbing as it indicated that many of the claims might stand if the Custodian himself had no evidence that, for example, the claimant himself had disposed of a large portion of his chattels prior to evacuation. I decided to make a test, and instructed the executives preparing the claim files to remove everything from the claim file where there appeared to be a deliberate attempt to claim for chattels that had been disposed of by the claimant. Realizing that this would be withholding information from counsel for the claimant, and that he might consider that this was not proper in view of the Commissioner's instructions, I discussed the situation with the Commissioner and he agreed that if Government counsel could make an example of one claimant at each centre where the cases are heard, it would have a salutary effect on other claimants and would put counsel for the claimants on guard to see that the claimants do not file fictitious claims. You will be interested to know that in a specific case heard while I was with the Commission at Nelson, a claimant and his wife both testified that they had not disposed of their chattels prior to their evacuation. There was no indication on the Custodian's claim file that they had done so, and the claim was not amended in this respect prior to the hearing. In the course of cross-examination, Government counsel was able to produce a letter signed by the purchaser to the effect that \$1,000.00 had been paid to the Japanese claimants for certain assets, including chattels. Even after being faced with this letter, the claimant still denied the sale, and the Commissioner impressed upon him and upon his counsel the seriousness of

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claiming for articles that had been disposed of by the claimant. The result of these tactics were <sup>immediately</sup> ~~immediately~~, apparent, for at the following day's hearings and at subsequent hearings, we found that certain claims that had been amended at the time the claimant was interviewed by his counsel's representative, were further amended at the time of the hearing, so that we are now having further amendments. I think that the Commissioner was quite right in stating that these tactics by Government counsel were justified and will have a salutary effect as the Commission proceeds across Canada.

As a rule, when a claimant appears before the Commissioner, the claimant's counsel immediately files an amended statement of claim and some cross-examination takes place. Upon arrival in Vancouver, I found on reading transcripts of the evidence taken at the previous hearings, that there was no indication of the line that the Government's defence would take and on interviewing the Commissioner and the claimants' counsel as to the attitude they would take at the fall session when the Government defence is put in, I was advised that Government counsel would not be permitted to introduce a defence that he had not indicated at the time of the hearing, because it is only during the present hearing that the claimant has any opportunity of rebuttal. For example, if the Custodian's claim file indicated that the claimant had placed his chattels in the hands of his agent and therefore, under the terms of reference the agent would be responsible for their administration and not the Custodian, the claimants' counsel argued that Government counsel must point out that the defence would be the claim was outside the terms of reference, and if Government counsel did not point this out, then even though agency was indicated in the claim file, the claimant would be entitled to assume that the Government would not defend on this basis. As a result of these discussions, Government counsel now opens his cross-examination by stating, in very general terms, what the Government's defence will be, thus giving the claimant an opportunity to reply during re-examination.

#### 4. Preparation of the Defence.

As indicated above, Government counsel is at the time of the hearing of claims, outlining in very general terms what the Government's defence will be. The transcripts of evidence are now pouring into the Custodian's office, and unless the preparation of the defence is to get out of hand entirely, it is essential that these transcripts be studied and the amendments to the claims be considered so that the final claim is known, and the defence can be prepared.

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During the hearing of the claims the Custodian's claim file is being decimated by documents, letters and memoranda being extracted from it by both the Government and the claimant's counsel, and being filed as exhibits. I discussed this situation with the Commissioner and have convinced him that in view of the fact that there is no certainty that his recommendations will finally dispose of these claims, the Custodian's master files must be complete, and also in order that Government counsel can prepare the defence. The Commissioner has agreed that the Custodian is entitled to recover the original documents, letters and memoranda and it has been arranged that the exhibits are copied in the Custodian's office, and copies of same are handed to the Commission's secretariat. You will appreciate that it is impossible to follow the transcript of the evidence if the exhibits are not available.

Everyone is greatly disturbed at the magnitude of the problem of presenting 1400 defences. After considering the situation, I have come to the conclusion that it may be possible to divide the claims into categories, and thus considerably reduce presentation of the defence.

I have had several conferences, relating to this problem, with the Commissioner and he feels that one of two courses may be adopted. The first, that he hear 1400 individual defences, which in my estimation will mean that he will not be in a position to make any recommendations until at least the fall of 1949. The second, that if sufficient statistical information can be extracted from the files and the transcript of evidence, he may be in a position to make general recommendations relating to the various categories of claims.

For example, in the case of the fishing vessels relationship between the sale price, the appraised value and the claim may show that the Custodian's appraisals were 10%, 20% or 50% low and if he is satisfied that the Custodian's appraiser was a qualified appraiser, the Commissioner may make a recommendation as to a percentage to be paid across the board to all claimants for fishing vessels. This theory may also be applicable to chattels, real estate etc.

The Commissioner feels that he will have to hear the individual defences in the case of the corporations and that he will require considerable evidence to be given with respect to the qualifications and valuations made by the Soldier Settlement Board, upon which sale to the Director of the Veterans' Land Act was based.

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If the Commissioner, after examining the statistical information which I propose the Custodian staff extract from the records, feels that he can make recommendations, it will greatly simplify the presentation of the defence. On the other hand, if counsel for the claimants and the Government counsel feel that individual defences must be presented, then the statistical information will be invaluable in preparing the defence.

Mr. Shears and I have been working on this problem for the past week and have now evolved certain forms which he will show to the Commissioner this week, on which this statistical information can be entered. At the time that the information is extracted from the records, it is anticipated that there will be 800 transcripts on hand by the first of July, the staff doing this work can also prepare memoranda stating the line of defence the Government counsel indicated in each case, and the names of the witnesses that will have to be called to support such defence.

In view of the statements made above as to the tremendous volume of work now being handled by the existing staff of the Custodian's office, it is obvious that additional help will have to be obtained. Government counsel has stated on several occasions that he is convinced that the Custodian staff must be increased if the work of the Commission is to continue without any long adjournment for the preparation of the defence. After discussing the question of defence with the Commissioner, and with his support, I have proposed to Mr. Shears and he has accepted my suggestion, that the following arrangements be made, subject of course, to your approval.

As of March 22nd, Mr. Shears is hiring two men, and even if you do not approve of the proposal outlined below concerning the law students, these two men will be necessary to insure Mr. Shears' ambitious programme to keep up with the work of the Commissions and the preparation of the defence.

Mr. Shears and I have had an informal interview with Dean Curtis of the University of British Columbia Law School and I have suggested to the Dean that a number of law students either may not be articulated during the summer months or might be available from firms who have articulated more students than they actually require, and that the Law Society might permit the Custodian to employ at least five students from 1st of May

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until the 15th of September. I have pointed out that they would be doing  
semi  
~~some~~ legal work in reviewing evidence and in a preliminary way preparing  
briefs for the defence. I have also pointed out that while the Custodian  
would be prepared to pay the students a reasonable remuneration, he would  
not like to pay salaries that might create ill will with the legal profession  
generally. I have advised Dean Curtis that I have not obtained your  
approval to carry out this scheme, but I have requested that he ascertain  
whether or not the Law Society would be prepared to co-operate.

It would be very helpful if I could have your views as to whether  
or not the Custodian is prepared to accept these proposals, which, I may  
add, are supported by Mr. Shears.

I feel that the protection of the Custodian's interests, as  
recognized at the present time, are being taken care of, and that Mr. Shears  
can ably deal with any problems that may arise as the Commission travels  
eastwards across Canada.

My covering letter explains my future position in these matters  
as I see it at this time.

G.W. McPherson  
Executive Assistant.

GWM/GH

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GFM 31-5-47

## Seizing UFLT Properties Cost Ottawa \$152,000

By WARREN BALDWIN

Ottawa, May 30 (Staff).—Return of properties and compensation paid to the Ukrainian Farmer Labor Temple Organization and their affiliates as a result of the McPhee report cost the government approximately \$152,000, according to evidence given today by Dr. E. H. Coleman, Under Secretary of State and deputy custodian of enemy property, to the public accounts committee of the Commons.

Sale of the eight properties across Canada by the custodian after the UFLT had been declared illegal in 1940 was the subject of a vigorous fight by the organization, and eventually the advisory committee appointed by the custodian under the chairmanship of Judge W. G. McPhee recommended that the lands be repurchased and handed back at the cost only of improvements. The repurchase cost the government \$83,236 above prices paid on the original sale. In addition, debit balances were absorbed amounting to \$30,000, claims were paid of \$10,791 and taxes of \$13,000. Against this there was a payment by the UFTL for improvement of about \$5,000.

Beside this compensation of \$20,000 was paid to the Workers and Farmers Publishing Association as a result of sale of their printing shop equipment in Winnipeg. Their claim had been \$55,000. This equipment was sold originally in 1941 for \$9,696.

Details of this transaction were given to the committee today for the first time by K. W. Wright, counsel for the custodian, who was sent to Winnipeg to investigate after the Secretary of State had been confronted with this \$55,000 claim.

Briefly, the Toronto Type Foundry had been employed by the custodian to make an appraisal of the equipment and had been paid a fee of \$20. The valuation had totalled \$9,811. When the custodian offered the property for sale by tender the Toronto Type Foundry turned up as the only bidder. Mr. Wright did not disclose the amount of the bid. It was refused and the property was sold later to two purchasers, Walter Lewicke and the Ukrainian National Publishing Company.

In 1945 State Secretary Paul Martin was confronted by the secretary of the Workers and Farmers Publishing Company with a valuation, part of which at least was made by the same company. Mr. Wright didn't give the committee the total of the second appraisal, which had been made on the basis of 1941 values, but it was sufficient to bring instructions from Mr. Martin for an immediate reopening of the case. Another valuator was employed, the Printing Ink Machinery Company of Winnipeg, and on the same list which the Toronto Type Foundry had reported as worth \$9,811 produced a valuation of \$28,773.

GFM 31-5-47

## Royal Commission On Jap Land Sales Sought by Committee

By WARREN BALDWIN

OTTAWA, May 30 (Staff).—The public accounts committee of the Commons today unanimously approved appointment of a Royal commission to investigate purchase of farm land from evacuated Japanese by the Department of Veterans' Affairs. The

land was bought in a private deal between the Veterans' Land Act administration and the custodian of enemy property (Secretary of State) at \$400,000 below its assessed value.

The committee today, on motion of Karl Homuth (PC, Waterloo South), seconded by J. O. Probe (CCF, Regina City), instructed its steering subcommittee to include recommendation for the Royal commission in an interim report to be presented to the House on the Japanese issue.

Gordon Isnor (L, Halifax), who has been acting chairman, agreed to draft the report on the Japanese question for the steering committee.

Mr. Isnor was asked by John Diefenbaker (PC, Lake Centre) whether he or the steering committee had been approached by Veterans Minister Mackenzie. On May 14 Mr. Mackenzie challenged an editorial in The Globe and Mail and declared that he would ask the public accounts committee to subpoena the publisher, George McCullagh, to substantiate the charges made.

Mr. Isnor replied that neither he nor the committee had taken action to have Mr. Mackenzie called and added:

"May I just express personally the thought that I can see no good purpose in calling Mr. Mackenzie or any other member before the

JAP LAND—Page 2

## Jap Land Sale Probe Demanded

(Continued From Page 1, Column 2.)

committee to make statements of that kind when we have more important work to do."

Mr. Diefenbaker also received the assurance of Mr. Isnor that Gordon Murchison, director of the Veterans Land Act would be recalled for cross-questioning if it was desired. Mr. Diefenbaker said he and other members of the committee had a good many questions to ask Mr. Murchison.

Then Mr. Diefenbaker asked whether Mr. Mackenzie had changed his mind about calling Mr. McCullagh.

"The statement made in that editorial was retracted next day," W. H. Golding (L, Huron-Perth) interrupted.

"As I see it, the retraction was of no importance," Mr. Diefenbaker replied. "There were three or four unnecessary words withdrawn. The general purport of the editorial was not changed. It was not in fact denied and has been established by evidence given here, but I'm not enlarging on that at this moment. What I want to ask is: Has Mr. Mackenzie carried out his affirmed intention as expressed in the House? Has he expressed his desire or his intention to the steering committee or to the chairman to have Mr. McCullagh called?"

"We took no action to have Mr. Mackenzie called," Mr. Isnor replied.



## Enemy Property Custodian Work Under Combined Opposition Fire

By F. C. MEARS

(Gazette Resident Correspondent)

Ottawa, February 18. — Protests from spokesmen of the three political groups on the Opposition side against the absence of full information about the work of the Custodian of Enemy Property warmed debate in the House today on a measure of Secretary of State Colin Gibson to continue in effect regulations for enemy property control and trading with the enemy.

But the protests went farther than that for Donald Fleming (P.C. —Toronto-Eglinton) declared that included in the proposed measure was approval of regulations which carried with them "powers which no self-respecting Parliament can permit to be continued in time of peace." "The House," continued Mr. Fleming, "will rightly demand the fullest kind of report on operations under these sweeping regulations."

Then Gordon Graydon, prominent Opposition member, urged that the Minister (Colin Gibson) give the House complete information on the operations of the Enemy Property Custodian. "This is a public enterprise," said Mr. Graydon. "It belongs to the people who are entitled to the information, since we are spending public money on this matter."

M. J. Coldwell, C.C.F. Leader, got down to particulars. "Proper ties have been taken away from organizations and from individuals and have been sold," he said. "We should like to know something about the operation. Certain patents have been in the hands of companies which have been associated with Nazi organizations such as I. G. Farbenindustrie, and I should like to know what has become of the royalties due to Farbenindustrie from the Bayer Company which makes Aspirin in Canada and also what has been done about the Bren Gun concern."

E. G. Hansell, Social Credit spokesman, said that enemy pro-

perty matters were usually settled through treaties with foreign countries, but when the treaties were before Parliament for approval they were accomplished facts. "More often than not," he declared, "we put the cart before the horse, and instead of having an effective democracy we render it less efficient by doing it the treaty way."

"There is certainly not the same need for secrecy now that there was during the war," Col. Gibson, readily agreed, "but we do need these regulations in order to control enemy property that is in Canada, and also to enable us to continue investigations that have been going on ever since the war ended to locate enemy property that may have been skilfully hidden which was under the control of the enemy or their agents in Canada."

"When the Allied forces got into Germany," said Col. Gibson, "and had access to records there, information was secured which enabled

(Continued on Page 2, Col. 6.)

## CURBS ON JAPS WILL END HERE

### Canada Rescinds Most of Orders Imposed in Wartime

Ottawa, January 24. — (C) — Most of the Government powers taken to deal with the wartime problem of Japanese in Canada—23,000 were within her borders in 1941—have been lifted and Prime Minister King said today their repeal marked the "substantial completion" of the Government's internal Japanese program.

Specifically the Prime Minister announced:

1. Orders permitting deportation of Japanese have been rescinded.
2. Repeal of orders-in-council authorizing establishment of a special commission to investigate loyalty of persons of Japanese origin.
3. An order revoking the Canadian status of naturalized persons of Japanese origin who leave Canada has been repealed.
4. The Government will review cases where price injustice can be shown in sale of Japanese property by the custodian of enemy alien property.
5. Restrictions on movement of Japanese in Canada, at present in effect, will be continued along with provisions respecting issuance of fishing licences to Japanese.

In his announcement Mr. King said that although the emergency measure respecting deportation of persons of Japanese origin was repealed, the Government will continue to assist those who voluntarily wish to leave Canada.

The Prime Minister said that under the provisions for assisted movement from Canada which the Government put into effect, "the separation of those whose continued presence would be undesirable in Canada has been accomplished in

## CUSTODIAN—P. 1

us to locate in Canada and in other countries property which had an enemy interest."

The total value of enemy property which had come under control of the Canadian custodian since September 2, 1939, has exceeded a billion dollars, said the Secretary of State, but by gradual release of state funds and gold that belonged to former proscribed countries, as well as the release of property to persons who were able to establish that they could no longer be regarded as enemies, the total assets now under control of the custodian had dropped to \$350,000,000. Then the minister told the House: "The value of the claims already received by the custodian considerably exceeds the value of the enemy assets at the present time under his control."

### Bracken Asks Information

John Bracken urged more light on the operations of the Office of the Custodian of Enemy Property, while Mr. Coldwell brought up the case of certain Japs in British Columbia. Japs not friendly to the enemy. He said there was a sergeant in the Canadian Army of Jap origin. When he was absent in the Far East his property in B.C. was sold for a song, and when the sergeant returned he found he had no property at all. Col. Gibson flatly told the House he doubted if any compensation would be made in that case.

But there was another side to the question of Jap property in B.C., the minister indicated. He said that when the custodian took over the property of Japanese nationals or Japanese Canadians who had been displaced he had great trouble in getting full information about what property they actually held. The custodian had stated the Japs were afraid that any list they might give would afford the Government a lead as to where their assets were and that they would be confiscated. The result was the custodian got incomplete lists of property, but now these people, said the minister, were coming along with claims of exaggerated values.

Col. Gibson, answering a question of Mr. Coldwell, said any royalties payable to a foreign organization by a Canadian company would be taken over by the custodian. This would include such a case as that raised by Mr. Coldwell who spoke of royalties paid by the Bayer Aspirin Company of Canada to I. G. Farbenindustrie.

After the House in committee had adopted the resolution the minister introduced the bill based on it and this was given first reading.

a voluntary basis.  
"Nearly 4,000 persons of Japanese origin now have left Canada and returned to Japan. Among these were the Japanese whose deportation would have been necessary had they not gone voluntarily."

In regard to repeal of the orders-in-council revoking Canadian status of naturalized Japanese who leave Canada, he said this would not restore the Canadian status of those who already lost such status. It was believed the Government action came following lengthy Cabinet discussion and stemmed from a recent Privy Council decision confirming Canadian orders-in-council for voluntary shipment of Canadian-born and British-subject Japanese to Japan.

M. J. Coldwell, national leader of the C.C.F., commented that "the Government has forced" the Government to rescind the orders-in-council concerning the Japanese.



506 Royal Bank Bldg.,  
Vancouver, B.C.,  
February 7, 1948.

Dr. E.H. Coleman,  
Under Secretary of State of Canada,  
West Block,  
Ottawa, Ont.

Dear Doctor:

For some unknown reason it appears that I am going to be a channel to get ideas across in Ottawa from the Commissioner here, and hence the purpose of my letter of February 4th, and this letter.

1. I am enclosing a memorandum which contains the various decisions handed down by the Commissioner.
2. Local Counsel. Since writing you on February 4th, Mr. Hunter telephoned Mr. Varcoe and was informed that no action had been taken in Ottawa, and as a result of the conversation, Mr. Hunter is appointing local Counsel for British Columbia.
3. Fair Market Value. In my letter of February 4th, page 2, I referred to this question. I draw your attention to Rulings #9 and #12 of the enclosed paper.

I had a conference with the Commissioner yesterday and we discussed the effects of this ruling on the Japanese claimants and their counsel. The Commissioner stated that the terms of reference are quite clear, that the "fair market value" is to be taken as of the date of sale. He may make recommendations for the payment of compensation based on the valuation of the property as in the condition it was at the time of evacuation, but this will not be his general policy.

The Counsel for the Japanese, has stated that if the Commissioner's decisions do not take into account the deterioration of the property owing to the evacuation, then in such cases, the Japanese claimant will not be prepared to accept the Commissioner's decision as final and binding. The Commissioner has suggested, and Mr. Hunter has agreed, that I should raise with you the question

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February 7, 1948.

of obtaining an undertaking from the individual Japanese so that if the Commissioner hears his claim, the Commission's recommendation will be accepted as satisfactory and final. I suggested that Mr. Hunter should raise this matter with the Department of Justice. He thought that, as the Custodian had a direct interest in these matters, you might be able to get action if the matter were referred to you. The Commissioner also felt that I should write to you.

The practical results of the Commissioner's decision on the matter of valuation is likely to be that the Japanese Counsel will not be prepared to accept his recommendations either with respect to individual claimants or to corporations. Therefore, it does not appear that the hearings in any of the important cases will be final, and the government may hear another pressure group, like in the Ukrainian Farmer Temple Association cases, asking for further consideration.

The Commissioner suggests that Ottawa should consider the possibility that in arriving at the "fair market value" of property at the date of sale, the Commissioner may exercise very wide discretion as to whether or not he accepts the condition of the property as at the date of evacuation as the basis, or the condition as at the date of sale.

He also suggested the desirability of his insisting at an appropriate time that if he hears a claimant, the claimant will accept his recommendations as final. The Commissioner realizes that the Government is anxious to settle these cases once and for all and unless Counsel for the Japanese are prepared to accept his decisions, then he may be wasting his time and the Government's money in going on.

The Commissioner has suggested that I should write this letter to you today, and that as he considers a decision on this question urgent, I should telephone you from Kamloops before the end of next week.

I do not know if you will be able to get any decision on this matter, but I will telephone you from Kamloops on Friday, February 13th. I hope that the date is not a bad omen.

You may also be interested to know that as a result of enquiries, I found that Counsel were decimating the Custodian's files



Dr. E.H. Coleman

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February 7, 1948.

by taking off original documents and filing them as exhibits. Mr. Shears was worried about the situation and we have now arranged with the Commissioner that the Custodian's office can make copies of the exhibits, and file the copies, returning the originals to our file.

Yours very sincerely,

G.W. McPherson.

GWMcP/gn  
Encl.

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Vancouver, B.C.,  
506 Royal Bank Bldg.,  
February 20, 1948.

Private and Confidential

Dr. E.H. Coleman,  
Under Secretary of State of Canada,  
West Block,  
Ottawa, Ont.

Dear Doctor:                      Re: Judge Bird's Commission

I have your letter of February 13th and wish to thank you for the trouble you have gone to.

In writing my letter I was sure that the answer from Colin Gibson would be that the Commissioner and the Counsel should discuss their problems direct with the Dept. of Justice.

I attended the session in Kamloops and found it most interesting, but some phases of it rather disturbing. I will not write on these matters until I have a better opportunity of watching the Commission at work.

On the question of the finality of the Commission, I think that the Commissioner got his answer to this question when he asked one of the Japanese claimants whether or not the claimant would accept the Commissioner's recommendation as a final disposition of his claim. The Japanese smiled his enigmatic smile and replied, "Yes, if your recommendation is fair and just."

I find that Frank Shears is working extremely hard and has done a wonderful job in organizing the small Vancouver staff on such a basis that it is hoped they will be able to keep the Commissioner supplied with files as he crosses Canada. On the other hand, in view of the fact that the Commissioner insists that the sub-commissioner sits at the same time, for example, after he leaves British Columbia they will start to sit at British Columbia. I do not think it is humanly possible to keep up with such a programme but the staff will do their best. Looking at the situation here, one realizes that it is unfortunate the office was not given a few months to prepare claim files before any Sittings commenced.

Another major problem faced by Mr. Shears is the difficulty in having to advise Counsel, not only on background

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February 20, 1948.

material, but having to digest, prepare and brief every individual claim file for Counsel.

After a confidential chat with the Commissioner, we have been able to get across to Mr. Hunter the necessity of directing his cross-examination in such a way that he indicates what the defence will be in a particular case. Until my arrival, cross-examination was very general and Mr. Hunter was not indicating the defence. The Commissioner quite bluntly told Shears and myself that he would not permit Mr. Hunter to raise any defence in the fall, if he has not indicated his defence to the claimant during the present hearings. As a result of our discussion, and through the medium of Mr. Shears, I attempted to get these ideas across to Mr. Hunter, and the Commissioner took matters in his own hands on the opening day in Kamloops by telling Mr. Hunter that he thought before opening his cross-examination, he should state specifically what the grounds of the Government's defence will be. I found in reading thirty cases for Kamloops, that in eleven of them, the question of agency arises. This is an excellent defence for the Government, in view of the terms of reference.

After consultation with Shears and Hunter, I returned to Vancouver to collect briefs of the law for local counsel because we found that while Mr. Hunter had been given authority to appoint local counsel on his tour, he had done nothing about preparing briefs of the Orders-in-Council for them. He is assuming that Shears or I will brief counsel. I have suggested that when Mr. Hunter is in a town with the Commissioner and he knows the local counsel, he should spend some time with him in the evening, briefing him, and the Custodian's men should not assume this responsibility in case local counsel are not properly briefed.

Another reason I returned to Vancouver was to look into the situation insofar as the corporations are concerned, as these claims are going to be heard in the fall. Mr. Hunter has suggested that I might prepare his briefs for him. I did not commit myself



Dr. E.H. Coleman

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February 20, 1948.

except to say that I would look into the situation. As these are the most important claims, and as Mr. Hunter has the responsibility of acting as Government Counsel, it seems to me that he should prepare his own briefs.

I will look into the question further, but I think you will agree that if Counsel is going to properly defend any of the big cases, Counsel must be prepared to read the complete files himself, digest them, and prepare his own notes. I think you will also agree that neither Shears nor myself should accept this responsibility.

My stay in Vancouver has been prolonged because on my arrival I took sick, having managed to catch the 'flu germ, and was in bed for four days. Marilyn is now in bed, and I imagine it will go through the entire family. This has delayed my work, but on the other hand, Shears has agreed to stay with the Commission until it finishes at Vernon. He will then return to Vancouver and I will join it at Grand Forks. It is my intention to return to Vancouver about the 13th of March, after the sessions in Nelson, and Shears, accompanied by his wife, will join the Commission at Lethbridge and proceed east. After my next talk with Shears, Hunter and the Commissioner, I will decide whether to stay in Vancouver and assist in the preparation of briefs or go East.

My relationship with the Commissioner, Hunter and Shears has been extremely friendly, and I would not like you to infer from the above, that there has been any incident between any of us. The above is merely a report on what I have observed, and what I have tried to do to justify my being here.

Yours very sincerely,

G.W. McPherson.

GWMcP/GN

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VIA AIR MAIL

## CANADA

### DEPARTMENT OF THE SECRETARY OF STATE

PRIVATE & CONFIDENTIAL

Ottawa, February 13, 1948.

Dear Glen:

On Monday morning when I received your airmail letters of the 4th I discussed the points you mentioned with the Secretary of State.

Colonel Gibson is most definite in the view that the Commissioner and the Counsel appointed for the Government should hold their communications direct with the Department of Justice and that this Department should keep out of the picture in relation to communications with Ottawa.

I told Colonel Gibson that I would endeavour to have a little conversation, either face to face or over the telephone, with the Deputy Minister of Justice, Mr. Varcoe. I found, however, that Mr. Varcoe has been engaged in the Supreme Court practically all week. For example, he was to have attended an investiture at Government House on Tuesday to be invested with his C.M.G. but had to drop out by reason of his engagements in Court. I telephoned yesterday and found he was still in Court. Therefore, I was somewhat relieved to receive your telegram this morning to the effect that you were not going to telephone me today.

I found out, however, from the junior in the office, Mr. Affleck, who has charge of the details, that the Department has not yet designated local counsel; one reason being that the Department wanted to have, from the Commissioner, the approximate dates of his being in the outside districts such as Lethbridge, Winnipeg and Toronto so they could ascertain what lawyers in those places might be available. They also wanted from him an approximate number of cases so they could "in engaging Counsel" give an approximate idea of the time involved. I did not inform Mr. Affleck that ten days or two weeks ago the Private Secretary to the Minister of Mines and Resources (the Manitoba Minister) telephoned me that his Minister had been asked to nominate counsel for Winnipeg. The Private Secretary wanted to know the type of lawyer whom I thought might be suitable and generally the nature of the work. I made two or three suggestions to him and have heard no more of the matter.

On the broader issue of any widening of the Terms of Reference, I think this is a matter which should be taken up directly by the Commissioner or Government Counsel with the Department of Justice. The Terms of Reference were drafted by the Department of Justice on instructions of a sub-committee of the Cabinet. The Order made in September extending the powers was also drafted by the Department of Justice and approved by the sub-committee of the Cabinet on Japanese questions. The present Order, with the amendment, appears

G. W. McPherson, Esq.,  
Office of the Custodian,  
506 Royal Bank Building,  
Vancouver, B.C.

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to go as far as the Government felt itself willing to go to carry out the Prime Minister's declaration of January 1947. So far as we are concerned as a Department we certainly did not urge the appointment of a Commission but are simply, as it were, one of the defendants in <sup>the</sup> cause. My own feeling is that if the Government made any further change in the Terms of Reference, counsel representing the Japanese would raise some new point. I do not know of any rule of law which will preclude the claimants from contending, no matter what award may be recommended by the Commissioner, that the amount recommended is insufficient. The Government's defence, I presume, is simply going to be that it yielded to the request to appoint a Commission, limited as it was, and so far as the Government is concerned that is all it intends to do. My own thought is that Ruling No. 12 of the Commissioner which was attached to your letter of February 7th, is a very sensible and reasonable one.

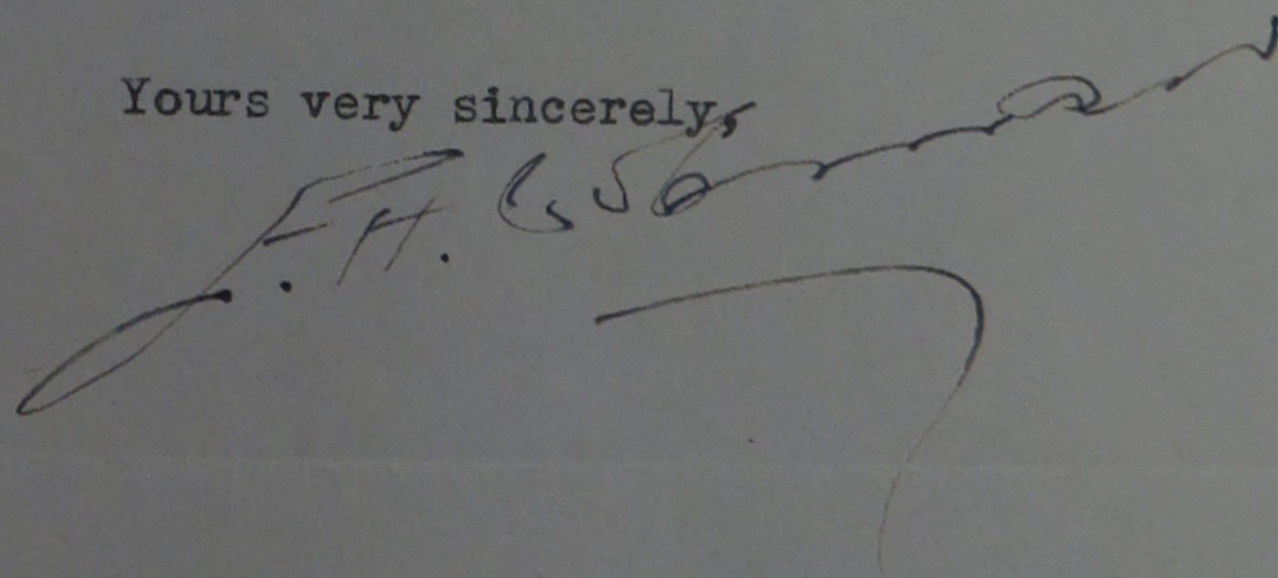
I am very grateful to you for your very interesting and full report. If I have the opportunity after Mr. Varcoe is free from his Court engagements, I will be very glad to mention the question to him privately. It so happens that the Minister of Justice has been away most of this week.

You will be interested to know that owing to a breakdown in the central heating plant we were without heat in the offices on Tuesday afternoon and all day Wednesday. This, naturally, has paralysed the ordinary activities of quite a number of the Departments of Government which were affected.

Your old friend Miss Carroll is apparently in good health and spirits and is giving us excellent assistance. We are trying not to work her too hard.

With kindest regards to Mercia and the girls,

Yours very sincerely,





506 Royal Bank Bldg.,  
Vancouver, B.C.,  
February 4, 1948.

Dr. E.H. Coleman,  
Under Secretary of State, of Canada,  
West Block,  
Ottawa, Ont.

Dear Doctor:

I have been busy discussing various problems with Mr. Shears, Mr. Hunter and Judge Bird. It is my intention to proceed to Kamloops on Sunday with the Commission. I find that Mr. Shears has been doing a great deal of work in assisting Mr. Hunter, with particular reference to the cross-examination at the time of the Hearings, and I have advised Mr. Shears that as he is familiar with the work, we should both proceed to Kamloops. The future will then be discussed. We have agreed that Mr. Shears should proceed east with the Commission, but in view of the ambitious programme which apparently means that the sub-Commissions will be sitting at the same time, considerable work will have to be done in Vancouver to prepare files for such new counsel as may be appointed.

Up to the time of dictating this letter, neither the Commissioner nor Counsel have been advised as to the names of the local lawyers, and both the Commissioner and Counsel have expressed considerable concern to me in this regard. I had lunch with the Commissioner the other day and he mentioned this question, and Mr. Hunter has mentioned it on several occasions. They have suggested that I might be able to do something to stir up the Department of Justice, but I am reluctant to interfere in any way as I feel it is the responsibility of Counsel, who is in direct touch with the Department of Justice.

The Commissioner has indicated that he thinks I may be useful to him as an outsider, both in making suggestions as to how Counsel should conduct his cross-examination, and in getting ideas across in Ottawa, because I am familiar with the Ottawa set-up. It is only on this basis that I refer at all to the question of the appointment of local lawyers.

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Dr. E.H. Coleman

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February 4, 1948.

The Commissioner is anxious that local counsel should attend the sessions so that they can acquire some knowledge of the manner in which the Commission is hearing evidence, and in order that they can be instructed as to the background and policy at the time the Commission sits in their locality. They will then be in a better position to represent the Government and this will avoid the necessity of a Custodian representative calling upon them at a later date. Counsel has advised that he forwarded an air mail letter to Ottawa yesterday, asking for names of the new counsel. From a practical point of view, it seems to me that their arguments are sound, and that there should be no further delay in appointing counsel. If you agree, any suggestions you can make in Ottawa would be greatly appreciated.

Counsel has suggested that I should take up with the Department of Justice a question raised by the Commissioner in an informal chat which Counsel had with him, the question relating to the "fair market value" of the assets. I am reluctant to do this as I do not want to appear to be interfering, but in view of the request, I do feel that I should mention the problem to you for such action as you may decide to take. The question at issue is as follows:

The Japanese Counsel contend that to arrive at a fair market value for the purpose of making awards under the terms of reference, the Commissioner should take the condition of the property as at the date of evacuation, but the property should be valued on the basis of the market value of property in that condition as of the date of sale. In other words, the Japanese should obtain compensation for the deterioration if any, between the date of evacuation and the date of sale.

Government Counsel takes the position that "fair market value", reading the strict wording of the terms of reference, means as stated therein, "fair market value thereof at the time of sale". He further argues that the valuation is

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Dr. E.H. Coleman

February 4, 1948.

obviously to be based on the condition of the property at that time. The attitude of the Commissioner appears to be that he is anxious to settle all of these claims in such a way that there can be no further criticism of the Government's action, and that it cannot be suggested that the Commissioner was unfair because of the basis upon which he arrived at a "fair market value". As requested, I am only pointing out to you the obvious results of accepting the argument made by Counsel for the Japanese.

The Japanese Counsel says that the Japanese should be compensated for the deterioration of their assets during the period between the vesting of the assets in the Custodian and their sale. If this argument is accepted, as regards land, it may be accepted as regards chattels and any other form of property. Counsel for the Japanese, if he knew that he had sold the Commissioner the idea and if he knew the Government was sympathetic, might enlarge the entire field of claims by saying that they should be compensated for loss of income, profits etc. The Government Counsel argues that the wording of the terms of reference is clear - that it is the value as at the time of sale and that it would be almost impossible to find out at this late date what the actual condition of the assets was at the time of evacuation.

The Commissioner has suggested that I should have a talk with him about this problem and it has been indicated to me that I should express the Government's view in order that he may not appear to go contrary to the wishes of the Government. I do not know whether Mr. Varcoe or yourself would be prepared to give me an opinion, but if you do, I have no doubt I can get it across to the Judge without in any way creating the impression that the Government is attempting to influence the Commission.

You will recall that in the discussion we had about the Veterans' Land deal, I told you it was my recollection that I had attempted to protect the Custodian from criticism in case the Director sold farms for more than he paid the Custodian. You advised that you had not heard of this. I am enclosing an extract from the Minutes of the Advisory Committee which supports my memory.



Dr. E.H. Coleman

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February 4, 1948.

I agree that there is no undertaking by the Director, but I have no doubt that if Mr. Barnet made the recommendation, it would have been acted upon. The question now arises as to whether or not the profits they made should be paid by the Custodian and credited and paid to the Japanese, thus reducing his claim. I have discussed this matter with the Commissioner in order that he might be aware of the fact that the Custodian took reasonable protections to guard against a re-sale at a higher price, and he is turning over in his mind whether or not any adjustments should be made at this date. In case he raises the point again, it would be interesting for me to know your views, and if possible the views of the Director of the Veterans' Land Act, although it is not necessary that any decision should be arrived at at this time.

You may be interested to know that the Commissioner indicated that I can do a useful job in making suggestions to Counsel, and possibly you had it in mind that I might be able to guide him a bit in his cross-examination in regard to laying the groundwork insofar as the Government's defence is concerned. Strangely enough, this very point was made to me by the Commissioner during the first meeting I had with him.

Yours very sincerely,

G.W. McPherson.

GWMcP/gn

Encl. 1.

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# Enemy Property In Canada Totals \$300 Million

By The Canadian Press.

State Secretary Gibson told the Commons Tuesday that assets held by the custodian of enemy property once totalled more than \$1,000,000,000, but now had dropped to \$350,000,000 as a result of settlement of claims.

He made the statement after opposition members made repeated requests that a report on the activities of the custodian be made available to Parliament. Col. Gibson offered to consider the requests but said there were probably some phases of the activities—those dealing with individuals—which should not be made public.

He also agreed to find out whether any enemy patents have been leased to Canadian firms by the custodian and what disposition will be made of royalties and shares accruing to Canadian individuals and firms from holdings in enemy countries.

Col. Gibson spoke before the Commons adopted a resolution to a bill that would continue some of the wartime powers of the custodian. The bill itself was given first reading and then debate was begun on second reading to a measure that would extend some of the wartime regulations under the Patent Act.

Among those asking Col. Gibson to table the custodian's report were Progressive Conservative Leader Bracken, Gordon Graydon (PC—Peel), Donald Fleming (PC—Toronto Eglinton), CCF Leader Coldwell and H. W. Herridge (People's CCF—Kootenay West).

Col. Gibson said in wartime it was essential that enemy coun-

Concluded on Back Page, Col. 4.

## Enemy Property Held in Canada

Continued from Page One.

tries should not know what assets remained in Canada belonging to nationals of a foreign country or what assets of enemy countries were owned by Canadian citizens and held in this country.

"The same situation does not prevail today, but we do need these regulations in order to control enemy property that is in Canada and also to enable us to continue investigations that have been going on since the war ended to locate enemy property may have been skillfully hidden or which was under the control of the enemy or their agents in Canada," he said.

"When the Allied forces got into Germany and had access to records there, information was secured which enabled us to locate in Canada and in other countries properties which had an enemy interest. Consequently the custodian is interested in and requires authority to continue to handle the property that is already in his hands or to make investigations to follow up any leads that were secured in Germany."

He did not know what arrangements would be made to compensate Canadians for claims for damage to properties in enemy countries. Those claims now totalled more than the \$350,000,000 still in the hands of the enemy custodian. He felt that possibly the claimants would be paid so much on the dollar.



# Billion In Enemy Assets Held

## Speedy Action Of Custodian Helped Win War

By James A. Oastler

*The Star's Resident Correspondent*

OTTAWA, Sept. 12 — Enemy assets seized by the custodian of enemy property here in Ottawa are estimated to be in the neighborhood of \$1,000,000,000, it was disclosed here today. It was also learned that the production of synthetic rubber in this country was made possible by the speedy action of the Office of the Custodian in seizing all patents held in Canada by enemy nationals.

The story of the custodian's office, which operates under the department of the Secretary of State, of which Paul Martin is the minister, is one of intrigue on the part of the enemy together with solid hard work. For instance, a short time before Germany went out of the war, a Canadian bank received instructions from a neutral country, supposedly from its customer, asking for the transfer of assets which he held in that country. The manager of the bank knew the customer personally.

He reported the request to the custodian and forwarded a cable to the neutral country advising that the matter was being discussed by the custodian and asking for information about the customer's mother. The cable came back saying the mother was well. The bank manager advised the custodian that the mother had been dead for years.

### Set Up After Last War

The office of the Custodian was originally established under the Treaty of Versailles for administering enemy assets seized during the last war and turned over to Canada under that treaty. The office continued from 1919 and is still in existence dealing with problems of the last war. What will happen to the assets seized in the present war is a matter that will not likely be decided until the peace conference. The assets seized in the last war, however, only totalled \$14,000,000 and a reserve fund is still maintained in case of any judgments. When World War No. 2 broke out, there were still many actions pending.

The purpose of the custodian is threefold. By taking control of enemy assets in Canada, the enemy is prevented from using these to wage war against this country and the cash seized is invested in Canadian Victory Bonds. Then too by taking control of the assets in Canada owned by British and other Allied subjects, the enemy is prevented from forcing such persons from turning over their assets to the enemy. The third is administering the trading with the enemy section of the custodian's regulations, whereby the supply of goods and services to the enemy is prevented and the economic blockade is helped.

All the assets of the people detained under the Defence of Canada Regulations were controlled and administered by the custodian.

### Circus Story Told

A prize example of the trouble the custodian could get into in handling some of these properties is the story of the circus. It had been owned by an internee and was on the road in the Maritimes. The custodian took over the property and proceeded to administer it. All went well for a couple of years. Then an elephant named Lindy began to give trouble. The age of the elephant was in dispute and this made it difficult to sell. Winter was approaching and finally arrangements were made for the circus to be quartered in a farm in the Annapolis Valley. From time to time various animals would escape but fortunately with the help of the R.C.M.P. serious damage was prevented.

Lindy, however, was a problem. She did not like being locked in a barn for months and on one occasion left the barn without troubling to have the door opened.

Lindy also liked oats and once the farmer found Lindy in his oat field and the entire crop a loss. Another problem the farmer had with Lindy was that of wandering around buildings and scratching herself against cottages with disastrous results.

Fortunately Lindy died, but unfortunately it was in the barn and the problem of disposal was one that took considerable time. The door by this time was too small and if she was removed what was to be done with the remains. Finally a butcher was hired and the remains cut up, but the plans to sell the meat for feed for foxes did not mature. Finally Lindy was buried in bits.

One operation of which the office of the custodian is proud is that of making fly catchers. The company was seized and is still being operated by the custodian. The claim is made that now they are the best fly catchers in the business.



# Interned Japanese owe thanks, ex-envoy says

**THE FEDERAL GOVERNMENT** says it is sorry but will not compensate Japanese-Canadians for their internment during the Second World War.

Vancouver businessman Frank Bernard feels not even an apology is necessary.

He thinks Japanese-Canadians should thank Canada for the humane treatment they received.

Bernard represents the other side at the heart of the lingering Japanese-Canadian story, the side that does not bleed.

Last week, after studying a report from an all-party committee, the federal government concluded that injustice had been done to the relocated Japanese-Canadians, expressed regret over "the deprivation and hardship suffered by most members of the Japanese-Canadian community" but declined to express that regret in the form of reparation payments.

Bernard hopes this will end what he calls, "the Liberal government's self-flagellation" over an issue he feels is little understood by most Canadians.

Bernard was there. He was right in the middle of it.

A Canadian citizen, Bernard was the Vancouver-based honorary vice-consul of Spain at the time of the Pearl Harbor attack.

When Canada declared war on Japan, Spain was approved by both countries as the third-party protecting power, the neutral intermediary, serving under the rules of the Geneva Convention

and reporting through the International Red Cross.

By that agreement, all of the 30,000 Japanese in Canada, 22,000 in B.C., came under Frank Bernard's consular jurisdiction. Until the end of the war, he had unlimited access and insight into the system set up by the Canadian government under Prime Minister Mackenzie King to relocate the Japanese-Canadians.

He had unlimited access to their new communities. His duties were to monitor and report on the living conditions of the relocation camps in Tashme, Slocan, Bridge River, Kaslo and New Denver and to serve as an intermediary for their complaints.

Bernard says: "The impression has been given that the Canadian authorities in charge of security after Pearl Harbor were monsters without a drop of the honey of human kindness. In fact, just the opposite is the truth. Never in the history of warfare have members of an enemy race been treated so humanely.

"In a time of near panic and wartime circumstances, the RCMP did a remarkable job of rounding up every Japanese on the coast.

"Remember, this happened when many Canadians were worked up in a frenzy of fear that most assuredly would have led to lynching and brutalization, had the Japanese not been protected.

"Many of today's loudest critics were the same ones who, in 1942,



**Denny Boyd**

cried for vengeance and harsh treatment when there was fear of Japanese landing on our coast, continued reports of victories by Japanese invasion armies and horrendous reports of brutal treatment of Allied prisoners of war by the Japanese."

After the relocation, Bernard was the arbitrator. He visited every camp once a month, spending a day or two in each, often accompanied by an RCMP official or a representative of the International Red Cross.

He knew some of the people in the camps, a few had been his classmates at King George High, but his relationship with them was impersonal.

Bernard says of the Japanese-Canadians: "I believe 95 per cent of them were loyal to Canada under normal circumstances, but who knows how many of them might have turned had the Japanese invaded the west coast, as was the real fear at that time. The other five per cent were enemies of this country.

"In each camp, there were trai-



**FRANK BERNARD**  
... 1942 photograph

tors to Canada, more among the foreign-born Japanese. But it was impossible to tell who was loyal and who was disloyal. The fate of Canada could have been affected by one traitor, especially in the event of an invasion. There was no other alternative to ensure securi-

ty of Canada's coast waters. Under similar conditions today, the decision undoubtedly would have to be the same."

Bernard defends the system of internment as fiercely as he does the necessity.

"During the war, the standard of living of more than 80 per cent of the evacuees was actually raised. The B.C. Security Commission provided better education, better medical attention and better diet than the majority of the Japanese had enjoyed before the war," he says.

"The camps were warm, dry and comfortable. Capable people were placed in charge of each camp and the International Red Cross inspected the camps regularly. Excellent medical and education facilities were set up for each camp. For the 80 per cent I mentioned, the facilities were significantly better than they had when most of them lived in sub-standard areas in Vancouver, Steveston and Prince Rupert.

"Bear in mind, too, that this took place, in wartime, while Canadian internees were dying from beri beri, slave labor and brutality."

Bernard recalls that when the Japanese internees complained to him about the removal of soya sauce from their diets, the Canadian government constructed a soya processing plant at Tashme. He also settled a brief strike, explaining to Japanese-Canadians working on the Hope-Princeton

Highway project that wartime strikes were inappropriate, especially by internees.

Bernard faces the seizure and sale of Japanese-Canadians' homes, fishing boats and personal possessions without apology.

"I was permitted to intercede in property matters on behalf of the Japanese. To imply intentional injustice in regard to Japanese properties is a gross untruth," he says.

"Real estate during that period had practically no market and land prices were ridiculously low. A five-room house could be bought for \$3,500 or rented for \$45 a month. New cars cost \$1,000. The minimum wage was \$65 a month.

"Bearing in mind the existing markets and the fact that hundreds and hundreds of properties, businesses, automobiles and boats had to be liquidated in a short time, I think the custodian, Glen McPherson, did a remarkable job in an orderly and honest fashion with good accountability. Admittedly, this brought material hardship to many of the Japanese, but keeping everything in fair perspective and considering the alternatives, such as those practised by the enemy, the Japanese were very fortunate.

"The Japanese problem was a serious one but it was handled with good sense, compassion and efficiency. I take my hat off to the people, most of them dead now, who were part of this humanitarian project."

SUN June 26th/84

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January 20th, 1941

GENERAL MEMORANDUM

Re: New York Trip Jan. 16th-18th

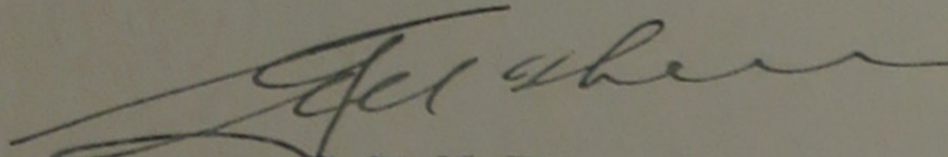
On Thursday morning, January 16th, I attended at the office of Mr. X as previously arranged. At that meeting we discussed a great many matters relating particularly to the files which I had taken from Ottawa, and separate memoranda dealing with the matters discussed are attached to this memorandum and to the respective files. This meeting lasted until 6:00 P.M. Thursday night. On Friday morning I attended at the office of the Canadian Trade Commissioner, Mr. Douglas C. Cole, and discussed various matters with him, memorandum dealing with same being attached.

I then attended at a meeting with Mr. Wingate, Secretary of the International Nickel Company of Canada Limited, and discussed various matters.

I attended at the office of White Weld & Company, brokers, to see Mr. Melly, who unfortunately was home sick. I talked to him by telephone, and the memorandum dealing with this matter is attached.

I discussed with Mr. Rouche, Secretary, New York Stock Exchange, various matters, also dealt with in separate memoranda.

On request I returned to Mr. X's office on Friday night before leaving to catch the train, arriving back in Ottawa on Saturday Morning, at 12:15.

  
G.W. McPherson

GWM/MG

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Langbank Sask sog 2xo

April 20/85

Mr. Glen McPherson  
4580 Marine Drive  
Vancouver. B.C.

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Dear Mr. McPherson-

I live here in Saskatchewan (retired from teaching in B.C.) and write for two local papers-I am Ray Perrault's aunt by marriage and in conversation with him the other night he mentioned your name in regard to the removal of Japanese from the coast area during World War 2-

I am continually enraged at the publicity given this removal always as a black mark on Canada. I was in Vancouver during the first part of the war and understand the vulnerability and the problems we had at that time. I understood from my conversation with Ray that you may have information regarding the compensation to removed families and other facts regarding this so necessary removal. I would very much like to get further information about that time and wondered if you would be so kind as to forward to me any facts I could use in columns in future. I sometimes tend to write things and not have just EXACTLY the facts and as you must know articles must be hung on facts.

My husband and I were in Papua New Guinea recently and heard the stories of what it was like to have a white skin there -real horror stories-thats not to say we need be like but to my knowledge no Japanese was starved, struck or ill treated by our mounties. The facts never seem to come out as to the dangers we faced after the surprise attack on Pearl Harbour and judging from my own feelings I'm sure if I had been in the same position as the Japanese Canadians I would feel very strongly loyalty to my homeland.

Thank you and do hope this won't be too much trouble to you. sincere  
Edith Newson

*Edith Newson*

Glen McPherson's Fonds

Accepted for deposit



8. Claim filed prior to July 1900 & they  
avoid claims on basis of what they see

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1 By October 8/42 all Japs out of Hastings Park  
2200 still in city (Problem handling)

2) Feb 25/43 Gov decided to move them

3) Jan 23/43 Custodian given authority to sell.

4) 23,000  $\frac{1}{3}$  Nationals 7,200

Naturalized 2,400

Born in Canada 13,400

1934 86% of Canadian born dual citizenship

Support & propaganda Japs war to Chinese

5. Bird Cameron arrived in Vancouver Jan 29/48

Shelter 1,400 defences

6. Custodian claim file made available to claimants.  
Lawyers.

7. Corp claims 50% of value of all claims



1. The day? after pearl harbor.

(1) Military situation

(a) Alaska

(b) staging area report

(c) hundreds of fishing vessels.

(d) approx 23,000 60% Canadian

20 malnourished

20 Japanese

(e) Many companies owned & had int'l Japan.

(2) Public attitude

(a) Concentration & not assimilated

(b) identifiable

(c) Black ants, penis

(d) vandalism

(e) Rumour mill

(1) boats, charts, radios

(2) songs to Japan

(3) letters to Japan.

2. Rumour to evacuate

(1) Public

(2) Politicians

(3) Fisherman union

(4) security

(5) protection

(6) war news all bad.

(7) Occupation Aleutians

3. Evacuation (1) Boats (2) Sec P (3) Curfew  
4. Transport ships funds held & paid to



5. Money to liquidate  
Veterans Land deal.  
stores cars homes.

6 1947 Rural Commis.

7. Comments

1. Security - sum want land

2. Protection

3. Loss income?

4 Today - accumulated successful.  
not being farms? Small plots

5. No confiscation



2.

# 1. The situation in Vancouver after Pearl Harbor.

## A. The military situation

1. Black out in Vancouver

1. U.S. Pacific Fleet gone.

2. Japanese moving into N.E. Asia and Eastern Siberia

3. The American army establishing a staging area

in Prince Rupert for the defense of Alaska.

4. Japanese had hundreds of fishing vessels

all over the west coast with charts and radios

5. Many of the Japanese ~~fish camps~~ ~~salterns~~

logging operations appeared to be in strategic areas

6. 23,000 people of Japanese origin concentrated

on the west coast not all Canadians

7. Little if any intelligence as to where their loyalties

<sup>perhaps</sup> would lie. <sup>or</sup> the Japanese landed on Vancouver Island.

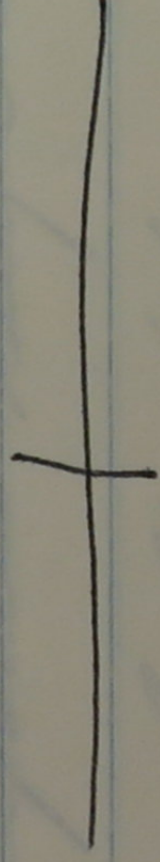
<sup>possibly</sup> 8. It had to be assumed among 23,000 there

had to be some enemy agents already in place.



3.

a quick military decision was made to  
seize the entire Japanese fishing fleet  
and this was done by the Canadian Navy.



B. The civil population situation.

1. The Japanese were concentrated in the  
east end of Vancouver, Steveston and the

Fraser valley

2. They were easily identifiable

3. A Percentage of the Vancouver population  
had never accepted them and resented  
their presence.

4 incidents of vandalism began to occur.



4

5. The museum will was in full flight  
and you hear that:-

(a) a submarine shelled Estuante

(b) the Japanese ship boats had

Japanese Navy code books and radio aboard

(c) The Black dragon society was well  
established in the Japanese community

U. W. W.

(d) The Japanese sent their ashes  
to be buried with their ancestors in

Japan

(e) Canadian Japanese children were  
sent to Japan for military training

Then a false doesn't matter it

was the psychological effect on the

public that was frightening and

The media as usual did its part.



5.

2. The period following the governments decision

~~to push back into British Columbia~~  
1. I was convinced that the Japanese had

to be moved for their own protection

why?

(a) We were not involved in a long

scout camping exercise we were

involved in a major war with as history

showed a very ruthless enemy.

(b) The news was all bad and getting worse

(c) The anti Japanese feeling was growing

and I shuddered to think what would

have happened if 23,000 Japanese

had been in the Vancouver area

The day we learned of the treatment

of the Canadian troops after the fall  
of Hong Kong or the plight of the British in Malaya



6.

2. Once the decision was made several things happened.

(a) The Japanese Security Commission was established and was responsible of the evacuation.

(b) The Japanese Evacuation Councils comprised further was established to take over the fishing boat sell it and get it back into production.

(c) The Custodian was given the responsibility to take over the evacuee property and assets inventory them, protect and administer the property. He was not given power to sell at that time.

Some went home?

3. The Custodians problem were monumental.  
1. Evacuee Property.

1. To protect the property he had to know

what was being moved where and from where.  
He had no control over the Security Commission.



7.

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2.

2. To protect the property he needed an inventory from every Japanese before he was evacuated. This was difficult to obtain in some cases as some felt would be given their property away.

3. Some people felt Japanese property was fair game and it was a major job to try and protect scattered farm house shops, etc. particularly if you didn't know when the owner was being moved.

4. We had stores to run & we customers

5. We had German and us farmers.

6. We had hundred of cars in holdings

Part.

Worst of all we didn't know how long the car would last



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8.

The Custodian had an almost impossible job and then he was given the power to sell the property and the assets as a trustee for the government requiring him to get a fair market price.

What was the value of a car with gas rationing - sitting outside in Hastings park in salt air when could you find a buyer for a Japanese store?

What <sup>where</sup> were the assets when he

had no inventory signed by the owner

I can only say the staff did their best under the conditions at the time



9.

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3. 1947-1948 The Review Commission

This Commission was under the further Bid  
and three or four judges

It held <sup>public</sup> hearings all across Canada and  
Japanese were invited to file claims with

the commission if they disputed the  
price the Custodian had obtained for  
any of their assets

They had their day in court and  
many awards were made based on  
fair market value at the time of sale.

For years ~~was up to~~ <sup>to</sup> ~~Friday night~~  
I have been reading stories and that  
the Custodian confiscated the Japanese  
property and the claimants their children  
and their grandchildren know it is not true



10

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The Japanese were given the  
munnys held by the Crested Auk  
and some were given additional  
awards by the Justice Bird

They can argue about the moral  
issues but they should be  
honest and admit the Crested Auk  
did not enslave their property

Correspondence, memoranda, newspaper clippings, 1939-1948, 1983

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11

4. 40 years later in retrospect

1. I believe that the examination was  
prejudiced ~~and concentrated~~ ~~from a national~~

~~point of view~~

2. As the war in the far east developed

I ~~was~~ <sup>was</sup> convinced it was in  
the best interest of the government  
not to be concentrated on the  
lower mainland, and to be  
under the protection of the federal  
government.

3. I ~~have~~ with never apologize  
of the actions of the Centoducis  
staff I think they did a remarkable  
job under impossible administrative  
conditions.



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12

4. The Canadian Japanese were not  
the only people to suffer a major  
sacrifice in Canada's war effort

5. I suggest to their representatives  
that they look back 40 years and  
understand what would have happened  
to their fathers and grandfathers  
if there had been no evacuation

Then take a look at their successors  
in business across this country  
~~scattered across Canada~~, integrated  
into the Canadian society.

If nothing had happened would  
they prefer to be back on the farm  
picking berries - its an ill word  
a blow no one good can not resist



### HISTORY OF THE CUSTODIAN'S OFFICE

The Custodian's Office was originally established under the Treaty of Versailles for administering enemy assets seized during the last war and turned over to Canada under that Treaty. The office continued to function from 1919 and is still in existence dealing with continuing problems from the last war.

In 1939 when it became apparent that there was going to be another war the Government decided to use the nucleus then existing of the old Custodian's Office, the personnel of which at that time consisted of the Custodian, who is the Secretary of State; the Deputy Custodian, who is the Under Secretary of State and an Assistant Deputy Custodian. The administrative side of the office was under the control of the Assistant Deputy Custodian with a Counsel to the Custodian on legal matters.

The old Custodian's Office, as a result of an agreement made in 1930 to return unliquidated property to Germany was involved principally in legal actions concerning property which had been seized and not returned as it had been liquidated, the actions involving claims for cash. In addition to this problem there were some unsettled claims as between the Custodian and Hungary and difficulties had arisen between the Amsterdam Stock Exchange and Canadian financial institutions, the Amsterdam Stock Exchange having refused to permit the listing of Canadian securities because the Canadian Custodian had refused to recognize that securities he had suspected had been taken from Germany to Holland after the last war were bona fide Dutch owned securities. These were matters of negotiation as late as the spring of 1939 in Amsterdam and this particular problem was settled at that time to the satisfaction of the Exchange and the Exchange was re-opened to the listing of Canadian securities. The balance of the funds which the Custodian held resulting from the liquidation of enemy assets from the last war were turned over to the Consolidated Revenue Fund early in the 1930's and was in the neighbourhood of \$14,000,000.00. The Custodian retained a reserve fund in case any of the judgments were against him and these are still maintained. At the outbreak of war there were still many legal actions still pending.

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Correspondence, Memoranda, 1939-1948, 1980

FOLDER No. 2-7



With the outbreak of war the Counsel in the Custodian's Office drafted the Regulations known as the Regulations Respecting Trading with the Enemy (1939) and the office got under way, the Regulations being effective on and since the 2nd of September, 1939. The purpose of the Regulations being in effect before there was actually a state of war was to cover the period during which the U.K. and Germany were at war before Canada and Germany were at war to prevent the enemy from disposing of their Canadian assets during this period. For the purpose of the Custodian this was covered by a special Order in Council and was called the period of apprehended war.

The purpose of the Custodian is three-fold -

- (a) By taking control of enemy assets in Canada we prevent the enemy from using such assets to wage war against Canada.
- (b) By taking control of the assets in Canada belonging to British subjects and other Allied subjects under the enemy's control, we prevent the enemy from forcing such persons to turn over their assets to the enemy.
- (c) To administer the Trading with the Enemy part of the Custodian's Regulations, thus preventing the supplying of goods and services to the enemy and assisting in the economic blockade. In this particular field the Custodian took charge of the preparation and publication of the List of Specified Persons, being a list of persons and corporations in neutral countries who were known to be politically sympathetic to the enemy or who were assisting the enemy. This is the list commonly referred to as the Black List.

Originally it was intended that the Custodian would be dealing only with the assets owned by persons in Germany because it was not immediately apparent that Germany would overrun Europe but when this became apparent it was necessary to widen the effect of the Regulations to cover territories which were not actually occupied by the enemy but which were indirectly under its control, for example, unoccupied France. Up to this time enemy territory was the enemy's territory and the territory actually occupied by the enemy but now a new definition was introduced and certain territories were called proscribed territories the object of which was to place under the Custodian's control the assets of persons residing in territory which from day to day



could not be called occupied territory, and therefore enemy territory, because of the fact that a front line was actually never established. The results of having territory known as proscribed territory were that we were able to proscribe, for example, the Netherlands, before it was actually occupied and we were thus able to control the assets of people residing there, and we were able to control the whole of France even though the Vichy Government was in control of a large part. The effect of the Custodian's control was that no trading whatever could be carried on with enemy or proscribed territory and Canadians were forbidden to deal with such territories or persons whose names appeared on the Black List without special permission from the Custodian.

The Custodian took control in Canada of the following types of property -

- (a) Corporations owned by persons in any territory controlled by the enemy or proscribed.
- (b) Corporations which were subsidiaries of corporations in neutral countries where such parent corporations were enemy controlled, for example, the I.G. Farben Industry subsidiary in the United States and its subsidiaries in Canada.

As regards corporations, the Custodian refused to restrict himself to looking at the place of incorporation but looked behind the incorporation to find who the ultimate beneficial owners were even though this involved investigations through several neutral and Allied countries. The Germans had a habit of incorporating subsidiaries which acted as holding companies, these holding companies being in well known neutral countries in Europe, for example, Switzerland. The holding company would then incorporate a company in another country, for example, Canada, the claim being made that the company was really incorporated in a neutral country. The Custodian looked behind such statements.

- (c) Real estate, cash in banks, securities issued by Canadian companies, regardless of where the paper was situated, the Custodian blocking the securities on the books of the Canadian companies and collecting the dividends and interest on any such securities.



(d) Life Insurance contracts, annuities and other contracts of this nature. However, in the case of an Allied country the Custodian recognizes that such contracts issued in an Allied country are being controlled by the Custodian of that country.

(e) Estates - either enemy estates in Canada or estates of persons deceased in Canada with beneficiaries in enemy territory. In this latter case the Custodian would seize the beneficial interest.

(f) Industrial items including patents, trade marks, copyrights, etc.

The assets of all persons who were detained under the Defence of Canada Regulations, such persons being classified as internees and therefore enemies, were controlled and administered by the Custodian. An example of this type of property would be the circus owned by an internee which was on the road in the Maritime Provinces and which the Custodian operated for a couple of years. This circus had numerous wild animals including an elephant named Lindy, the age of said elephant being uncertain and in considerable dispute when the Custodian endeavoured to sell her to wild animal buyers in the New York market. The Custodian, in administering this circus was faced with the problem of finding winter quarters in the Maritimes and arrangements were finally made for the circus to be quartered on a farm in the Annapolis Valley. From time to time various animals would escape but fortunately with the assistance of the R.C.M.P. no real damage was done and the escaped animals were either executed or recaptured. Lindy proved a problem, apparently not being favourably disposed to remaining locked in a barn for the winter months and, on at least one occasion, decided to leave the barn, the door unfortunately not having been opened. Lindy also liked oats and on one occasion the farmer, who, as a small boy, had been enthusiastic about circuses, found he had taken on quite a problem, when Lindy got into his oat field and scattered oats all over the place. Another problem with Lindy was that she was in the habit of wandering around buildings and it was feared she would lean on one of the farm cottages with disastrous results. Fortunately Lindy died but unfortunately in the barn and the problem of disposing of her remains occupied considerable time and thought since to move her was impracticable as the door was not big enough and if she was removed there was the question of what to do with the



remains. The Custodian finally hired a butcher and had the remains cut up but then couldn't dispose of them even for feed to a fox farm and they were ultimately buried. The Custodian did not lose money on the operation of the circus and finally disposed of the other animals by sale.

The Custodian has been engaged in the manufacture of fly catchers for some time, having seized an enemy owned company, and is still operating same.

The Custodian seized the I.G. Farben Industry's interest in a contract with the Bayer Aspirin Company, this contract now being in dispute in the Courts; the Bayer Aspirin Company contending that the contract was frustrated by the outbreak of war and the Custodian contending he is entitled to collect the royalties payable to Germany under the contract.

Insofar as enemy patents are concerned, the Custodian became the vested owner of all enemy patents but did not interfere with existing licence agreements except to the extent that he collected the royalties payable. The Commissioner of Patents, under his Emergency Regulations, has the right to issue licences to any persons wishing to use the patents and he sets the royalties which are to be paid and this has been done on several occasions. In the interests of the war effort the Custodian made available to certain companies various patents, for example, the <sup>Polymer</sup> patents under which synthetic rubber is being manufactured. The Custodian controls the Norwegian owned patents for the electrolytic production of aluminum and in the interests of the war effort has co-operated with the Aluminum Company

The licences granted by the Commissioner are generally for one year and six months after the war except in those cases where it can be shown that a large expenditure of capital is required in which case the Commissioner is able to grant the licence for the life of the patent.

As regards commercial debts owing by Canadians to enemies, the Custodian has collected the debts and they are held subject to their disposition under any treaty legislation. The Custodian has made no payments to the Bank of International Settlements.

As to the release of assets controlled by the Custodian, negotiations are now proceeding with the re-established governments of liberated territories



aimed at the releasing of Custodian controls over the assets of bona fide residents of those territories.

Insofar as what may be called belligerent enemy assets, being the assets of residents of those countries with which Canada is at war, are concerned, the Custodian will control such assets until the terms of the treaty will determine what their disposition will be. Under the Treaty of Versailles the assets held by the Custodian in the last war were used as reparation payments to individuals and corporations who lost moneys as a result of the enemy's action in Europe.

The assets seized by the Custodian and valued for the purposes of his administration, including both what might be called technical and belligerent enemy assets, would be in the neighbourhood of \$1,000,000.00. The larger percentage of this would be assets of liberated territories; for example, the German Foreign Exchange controls, having long before the war forced residents of that country to dispose of their foreign assets to that government.

After Pearl Harbour the Custodian took over all assets in Canada belonging to persons residing in the Japanese Empire and subsequently in all territories occupied by the Japanese. This, together with the evacuation of persons of the Japanese race from the British Columbia coast, necessitated the setting up of a Custodian's organization in Vancouver early in 1942. The Custodian, in addition to his enemy property work has taken over the administration of assets in the Protected Areas of British Columbia which were owned by persons of the Japanese race who have been evacuated therefrom. This means that the Custodian is engaged in operating all types of businesses in Vancouver's Japanese settlement on Powell Street and Japanese farms in the Fraser Valley, etc. This work included the taking over of the Japanese fishing fleet and all cameras, radios and cars belonging to persons of the Japanese race in the Protected Areas.

The Government's policy of liquidating the assets in the Protected Areas of Japanese evacuees has been carried out by the Custodian and the liquidation of real estate and chattels is almost complete.



Insofar as the fishing fleet is concerned, those fishing vessels which were owned by corporations, the stock of which was owned in Japan, were treated as enemy owned vessels and came directly to the Custodian. The balance of the fishing vessels were placed under the Japanese Fishing Vessels Disposal Committee which operated independently of the Custodian but which eventually turned over the balance of vessels to the Custodian when that organization was dissolved. Under the Committee the moneys received from the sale of the vessels were paid to the Japanese owners. Under the Custodian's control the moneys received were credited to the Japanese owner's account. As far as Japanese internees are concerned, they were treated as belligerent enemies and their assets, including the fishing vessels, if any, came direct to the Custodian.

The Custodian is releasing to Japanese evacuees the balance of funds held by him for their account after paying their debts in the Protected Areas.

The Custodian took over certain Japanese language newspapers in the Protected Areas which were closed and the assets have been, or will be, disposed of. Japanese type and Japanese records seized by the Custodian were made available for psychological warfare purposes.

In liquidating Japanese assets in British Columbia the Custodian had the advice of two independent committees both of which, in the first instance, had a Japanese member. The one committee dealt with assets in Greater Vancouver and was under the chairmanship of Mr. Justice Sidney Smith and the other dealt with property outside of Greater Vancouver and was under the chairmanship of Judge Whiteside. All the assets disposed of under these committees were appraised by independent valuers and sold for at least the appraised value.

In the handling of enemy assets information which might be of value to our Allies was supplied to them and vice versa.

The Custodian's Office in Ottawa has a staff of approximately 125 with a branch office in London which co-operates with the British Trading with the Enemy departments and an office in Vancouver which at one time had a staff of over 100 and now has a staff of approximately 45, this office being gradually decreased in size as the liquidation nears completion.



The Custodian receives no grant from the Consolidated Revenue Fund and operates his organization entirely on administration fees charged on the release of assets and on income from enemy property; the deficit, if any, probably to be taken care of by belligerent enemy assets.

The Custodian has negotiated arrangements with his British and American counterparts to avoid questions of conflicting jurisdiction. An example of where jurisdiction conflicts would arise would be the case of a Netherlands company, the shareholders unknown, holding as its assets all of the stock of a Canadian company; the assets of the Canadian company being the stock of an English company and the assets of the English company being principally held in New York. The Alien Property Custodian in the United States would seize the assets in New York on the grounds that he looked through the chain of companies and saw a probably enemy interest in the Netherlands. The British and Canadian companies would seize their respective companies for the same reasons. Unless an arrangement could be made to dissolve this type of problem the ultimate beneficial owners in the Netherlands would be faced with the necessity of going to three custodians. The arrangements made are designed to resolve this problem by all Custodians agreeing to release in favour of the Custodian resident to the enemy interest.

The Custodian's organization is based on the theory of a central organization with a comparatively small staff when one considers the assets controlled. The administration work is handled by the retaining of agents for specific jobs in the various centres throughout Canada, thus cutting the expense of the administration. The office is organized on the basis of the General Administration, Investigation Division, Legal Division, Internee Division, Real Estate Division, Commercial Debts Division and a Release Division.

In addition to enemy assets and Japanese evacuee property the Custodian was charged with the administration of the assets of all organizations declared illegal under the Defence of Canada Regulations, for example, the Ukrainian Labour Farmer Temple Association, The Witnesses of Jehovah, etc.



An example of how the Custodian has protected the assets of our friends in enemy controlled territory is the case of a Canadian bank which received instructions from a neutral country, supposedly from its customer, to transfer the customer's assets to that country. The Manager of the bank, knowing the customer personally, and reporting to the Custodian, forwarded a cable to the neutral country advising that the matter was being discussed with the Custodian and asking for information about the customer's mother. The cable came back saying the mother was well and the bank manager, knowing the customer's mother had been dead for many years, advised the Custodian.

The Custodian is also endeavouring to prevent the liquidation of plundered securities in neutral countries by exercise stringent controls where securities are dealt with on world exchanges. For example, an individual claiming income on Canadian securities or claiming the release of Canadian securities in a neutral country in Europe cannot deal with such securities without producing affidavit evidence as to ownership, residence, etc. The affidavit must show that the claimant owned the securities before the outbreak of war. Here again, the Custodian looks behind the registered name and endeavours to ascertain who is the ultimate beneficial owner. In this regard the Custodian, even before Pearl Harbour, received the whole-hearted co-operation of financial institutions in the United States, for example, the New York Stock Exchange.

The Custodian's Regulations were unique when first issued in having a provision which resulted in enemy assets automatically vesting in the Custodian without the necessity of applying to the Courts for a vesting order, the Custodian at law being the vested owner even though he may not know of the assets. In England the Custodian has to go to the Board of Trade for a specific vesting order which means he must present evidence of enemy ownership which, obviously is difficult to obtain when the evidence is under the enemy's control. In the United States the Custodian himself issues specific vesting orders. The Custodian in India subsequently adopted the same system as is used in Canada. The Canadian Custodian, however, has the power to apply to the Courts or have a special Order in Council passed vesting property which has been brought to his attention and which he suspects is enemy owned and which he feels, possibly



for its protection, should be administered by him but it might not legally vest because it may ultimately be found there was actually no enemy interest.

Under the Custodian's Regulations there is a moratorium imposed on all property vested in him, for example, property vested in the Custodian cannot be sold for failure to pay taxes without his consent; the theory being that the persons owning the real estate are unable to pay their taxes, even if they so desired because of war conditions, and the Custodian protects the property on the theory that the taxes will be paid at the time of release or that the tax authorities will be allowed to exercise their lien. If, on the other hand, the Custodian has funds out of which taxes can be paid belonging to the same account, he has adopted the policy of paying such taxes.

On the question of taxes the Custodian in large enemy owned companies has complied with the tax laws and has seen that the companies under his control have paid their taxes. On securities, the tax being deductible at the source, the Custodian representing non-residents, the tax has been paid by the paying agent. On the question of income from real estate, taxes have been paid where due but in all matters relating to taxes the Custodian is co-operating with the tax authorities and this situation will be definitely clarified before assets are released.

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