

1946
NEW ZEALAND

REPORT OF THE ROYAL COMMISSION

TO INQUIRE INTO AND REPORT UPON CERTAIN MATTERS ARISING OUT OF THE
ACQUISITION AND DISPOSAL OF SURPLUS ASSETS BY THE WAR ASSETS
REALIZATION BOARD

Laid on the Table of the House of Representatives by Command of His Excellency

*Royal Commission to Inquire into and Report upon certain Matters arising
out of the Acquisition and Disposal of Surplus Assets by the War
Assets Realization Board*

GEORGE THE SIXTH by the Grace of God, of Great Britain, Ireland,
and the British Dominions beyond the Seas. King, Defender of
the Faith :

To Our Trusty and Well-beloved James Rankin Bartholomew,
Esquire, C.M.G., LL.B., of Dunedin : Greeting.

WHEREAS it has been alleged that the acquisition and disposal of certain assets—namely, the motor-vehicles made available to the War Assets Realization Board constituted under the War Assets Realization Board Regulations 1945 by a declaration by the United States Joint Purchasing Board dated the 24th day of October, 1945—has not been carried out by the War Assets Realization Board carefully, diligently, in a business-like and efficient manner, and with faithfulness to the interests of the State : And whereas We have deemed it expedient that a Commission should issue to inquire into the circumstances of such acquisition and disposal :

Now know ye that We, reposing trust and confidence in your impartiality, integrity, and ability, do hereby nominate, constitute, and appoint you, the said

James Rankin Bartholomew

to be a Commission to inquire into the proceedings of the War Assets Realization Board in relation to the acquisition and disposal of the said assets, and into the question whether the members and officers

of the War Assets Realization Board acted in relation thereto carefully, diligently, in a businesslike and efficient manner, and with faithfulness to the interests of the State :

And generally to inquire into and report upon such other matters arising out of the premises as may come to your notice in the course of your inquiries and which you consider should be investigated in connection therewith :

And for the better enabling you to carry these Presents into effect you are hereby authorized and empowered to make and conduct any inquiry under these Presents at such time and place as you deem expedient, with power to adjourn from time to time and place to place as you think fit, and so that these Presents shall continue in force, and the inquiry may at any time and place be resumed although not regularly adjourned from time to time or from place to place :

And to call before you and examine on oath or otherwise as may be allowed by law such person or persons as you think capable of affording to you information in the premises :

And you are also hereby empowered to call for and examine all such books, papers, plans, documents, or records as you deem likely to afford you the fullest information on the subject-matter of the inquiry hereby directed to be made, and to inquire of and concerning the premises by all lawful means whatsoever, and to do all things and exercise all powers that might be done or exercised under the Commissions of Inquiry Act, 1908 :

And, using all diligence, you are required to report to His Excellency the Governor-General under your hand and seal not later than the thirty-first day of August, one thousand nine hundred and forty-six, your findings and opinions on the matter aforesaid, together with such recommendations as you think fit to make in respect thereof :

And you are hereby strictly charged and directed that you shall not at any time publish or otherwise disclose, save to His Excellency the Governor-General in pursuance of these Presents or by His Excellency's direction, the contents of any report so made or to be made by you :

And, lastly, it is hereby declared that these Presents are issued under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the authority of and subject to the provisions of the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council of the Dominion of New Zealand :

In witness whereof We have caused this Our Commission to be issued and the Seal of Our Dominion of New Zealand to be hereunto affixed at Wellington, this eighteenth day of July, in the year of Our Lord one thousand nine hundred and forty-six, and in the tenth year of Our Reign.

Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, on whom has been conferred the Victoria Cross, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Honourable Order of the Bath, [L.S.] Knight Commander of the Most Excellent Order of the British Empire, Companion of the Distinguished Service Order, Lieutenant-General in His Majesty's Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

B. C. FREYBERG, Governor-General.

Approved in Council—

W. O. HARVEY, Clerk of the Executive Council.

Royal Commission on Acquisition and Disposal of Surplus Assets by the War Assets Realization Board.—Extending Time for reporting

GEORGE THE SIXTH by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith :

To Our Trusty and Well-beloved James Rankin Bartholomew, Esquire, C.M.G., LL.B., of Dunedin : Greeting.

WHEREAS by Our Warrant of date the eighteenth day of July, one thousand nine hundred and forty-six, issued under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, you were appointed a Commission to inquire into and report upon certain matters arising out of the acquisition and disposal of surplus assets by the War Assets Realization Board :

And whereas by the said Warrant you were required to report not later than the thirty-first day of August, one thousand nine hundred and forty-six, your findings and opinions on the matters thereby referred to you and your recommendations thereon :

And whereas it is expedient that the time for so reporting should be extended as hereinafter provided :

Now, therefore, We do hereby extend until the thirtieth day of September, one thousand nine hundred and forty-six, the time within which you are so required to report :

And We do hereby confirm the said Warrant and the Commission thereby constituted save as modified by these Presents.

In witness whereof We have caused this Our Commission to be issued and the Seal of Our Dominion of New Zealand to be hereunto affixed at Wellington, this twenty-eighth day of August, in the year of our Lord one thousand nine hundred and forty-six, and in the tenth year of Our Reign.

[L.S.] Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, on whom has been conferred the Victoria Cross, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Honourable Order of the Bath, Knight Commander of the Most Excellent Order of the British Empire, Companion of the Distinguished Service Order, Lieutenant-General in His Majesty's Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

B. C. FREYBERG, Governor-General.

Approved in Council—

W. O. HARVEY, Clerk of the Executive Council.

REPORT

TO HIS EXCELLENCY THE GOVERNOR-GENERAL OF THE DOMINION OF NEW ZEALAND.

MAY IT PLEASE YOUR EXCELLENCY,—

Whereas by Warrant dated the 18th day of July, 1946, under Your Excellency's hand and sealed with the public seal of the Dominion of New Zealand, I, the undersigned, James Rankin Bartholomew, was appointed a Commission to inquire into the proceedings of the War Assets Realization Board in relation to the acquisition and disposal of certain assets—namely, the motor-vehicles made available to the War Assets Realization Board constituted under the War Assets Realization Board Regulations 1945, by a declaration by the United States Joint Purchasing Board dated the 24th day of October, 1945, and into the question whether the members and officers of the War Assets Realization Board acted in relation thereto, carefully, diligently, in a business-like and efficient manner and with faithfulness to the interests of the State, and generally to inquire into and report upon such other matters arising out of the premises as might come to my notice in the course of my inquiries and which I considered should be investigated in connection therewith, and to report to Your Excellency under my hand and seal not later than the 31st day of August, 1946, my findings and opinions on the matter aforesaid, together with such recommendations as I think fit to make in respect thereof. And whereas by Warrant dated the 28th day of August, 1946, under Your Excellency's hand and sealed with the public seal of the Dominion of New Zealand, the time for making such report was extended to the 30th day of September, 1946: Now, therefore, I have the honour to report that due notice of the sitting of the said Commission was previously given by public advertisement in the daily newspapers in Auckland, Wellington, Christchurch, and Dunedin, and that the Commission held sittings at the departmental building, Stout Street, Wellington, from the 12th day of August, 1946, to the 2nd day of September, 1946, inclusive, when the Solicitor-General, Mr. H. E. Evans, K.C., and Mr. P. B. Cooke, K.C., appeared as counsel appointed by the Crown to assist the Commission. Mr. T. P. Cleary appeared for the War Assets Realization Board; Mr. S. G. Stephenson appeared for Brigadier H. E. Avery, General Manager of the War Assets Realization Board; Mr. J. Meltzer appeared for Mr. O. Conibear, Secretary to the War Assets Realization Board; Mr. D. R. Hoggard appeared for G. T. Gillies, Limited, Oamaru; Mr. L. G. Rose appeared for Mr. G. Laing, Government Inspector of Motor-vehicles; and Mr. W. E. Leicester and Mr. R. E. Tripe appeared for Messieurs W. S. Goosman, R. G. Gerard, W. J. Broadfoot, and W. A. Sheat in their private capacity as members of the public; and at a later stage during the proceedings Mr. R. E. Harding appeared for Mr. W. P. Warner, truck salesman, of Christchurch, and Mr. R. Watterson appeared for Mr. C. R. Vincent, motor-dealer, of Newmarket, Auckland. A visit of inspection was also made to the site at Seaview, the parking-place of the said motor-vehicles.

Evidence was given at length by the officers and some members of the War Assets Realization Board (hereinafter throughout this report referred to as the Board) and by numerous other witnesses, and full opportunity was given to the various counsel to examine and cross-examine, and a most thorough and exhaustive inquiry was made into the premises.

A record of the proceedings and the evidence and the exhibits accompanies this report.

The Board is constituted under the War Assets Realization Board Regulations 1945. The following regulations in particular set out the Board's functions, powers, and personnel :—

3. For the purpose of effecting disposal of all stores which become surplus to the requirements of Government Departments there shall be a Board to be known as the War Assets Realization Board.

4. The general functions of the Board shall, but subject in all respects to such directions as may be given to it by the Minister of Finance, be—

- (a) To arrange for the disposal to best advantage all stores, whether situate in New Zealand or elsewhere, which from time to time are declared by Government Departments to be surplus to their requirements :
- (b) Where necessary or convenient, to arrange for the safe custody and storage of such stores pending disposal :
- (c) To ascertain the requirements of Government Departments with a view to meeting such requirements from stores available for disposal :
- (d) To advise the Minister of Customs and Minister of Supply of stores available for disposal with a view to obviating the unnecessary issue of import licenses or unnecessary placing of orders by the Minister of Supply.

5. The Board shall consist of the Minister of Finance and the officers for the time being holding the following official positions :—

- (a) The General Manager of the Board :
- (b) The Secretary to the Treasury :
- (c) The Quartermaster-General :
- (d) The Air Force Member for Supply :
- (e) The Commissioner of Works :
- (f) The Commissioner of Supply :
- (g) The Under-Secretary, Public Works Department :
- (h) The Chairman, Stores Control Board Advisory Committee.

6. The Minister of Finance may from time to time appoint any other person to be a member of the Board during his pleasure.

7. Each of the persons holding the official positions hereinbefore enumerated may at any time nominate an officer of his Department to attend in his place any meeting or meetings of the Board.

8. The Minister of Finance shall be the Chairman of the Board.

9. The Minister of Finance may from time to time appoint a member of the Board to be Deputy Chairman thereof to preside at meetings in the Chairman's absence.

19. There shall be a General Manager, who shall be a member and chief executive officer of the Board, and a Secretary to the Board.

21. In exercise of its functions the Board shall have power—

- (a) To sell, exchange, lend, or otherwise dispose of or deal with surplus stores upon such terms and subject to such conditions as the Board may consider desirable :
- (b) To hold, manage, operate, finish, assemble, transport, repair, maintain, and care for surplus stores :
- (c) To arrange for the transfer of surplus stores from one Government Department to another :
- (d) To arrange for the transfer of buildings or other assets to an owner of property in satisfaction of claims for compensation for the use of such property.

22. The Board shall have the like power of contracting for the sale or other disposal of stores as is enjoyed by a Permanent Head and, in the case of any contract entered into with the approval in writing by the Minister of Finance, the like power of so contracting as is enjoyed by the Minister of Finance.

23. Any contract in writing entered into by the Board may be signed by the General Manager on behalf of the Board.

27. The Board may undertake the disposal of surplus stores on behalf of any other Government and on behalf of an authority or organization established by any other Government for the disposal of surplus assets for that Government.

28. The Board may from time to time set up such honorary Advisory Committees as it thinks fit, which shall consist of not less than three members, and the members of which may include persons who are members of the Board.

38. In the exercise of its powers the Board shall, besides complying with the directions of the Minister of Finance, have regard to any representations relating to its business that may be made to it by the Minister of Finance.

The place of the Minister of Finance, the Right Honourable Mr. Nash, during portion of the time that is material to this inquiry was taken by the Honourable Mr. McLagan during the former gentleman's absence from New Zealand. Neither Minister attended any Board meetings during the period in question.

The personnel of the Board was as under :—

The Right Honourable Walter Nash, P.C. (Chairman).

Brigadier H. E. Avery, C.M.G., C.B.E., D.S.O.

Mr. B. C. Ashwin, C.M.G. (Deputies : Mr. A. B. Taylor and Mr. N. R. Davis).

Brigadier G. B. Parkinson, C.B.E., D.S.O.

Air Commodore S. Wallingford, C.B.E. (Deputy : Wing Commander G. Carter, O.B.E.).

Mr. E. R. McKillop, O.B.E.

Mr. F. R. Picot, C.M.G. (Deputy : Mr. P. B. Marshall).

Mr. N. E. Hutchings, C.B.E.

Mr. A. H. Sage, O.B.E.

Mr. J. G. Young, C.B.E. (Deputy Chairman).

Mr. F. P. Walsh.

Mr. D. A. Ewen, O.B.E.

Mr. E. P. Meachen, M.P.

Mr. T. H. McCombs, M.P.

Brigadier Avery was General Manager of the Board, and Mr. J. G. Young was the Deputy Chairman.

Normal meetings of the Board were held fortnightly on every alternate Tuesday at 10.30 a.m., and usually lasted until lunch-time. Previous to the meeting an agenda was circulated to the members showing the matters to be dealt with, and this was usually received by the members on the preceding Friday ; but matters arising after the agenda was sent out and of which members had no notice were also dealt with at the meetings. Two months ago the hour of meeting was altered to 9.30 a.m. as it was found there was so much to do that they could not get through it in the time.

It should be pointed out that although the Board as at present functioning was constituted by the above-mentioned regulations on 31st October, 1945, a War Assets Realization Board was created in June, 1944, when its present Secretary was appointed Acting-Secretary and Brigadier Avery appointed General Manager. The latter, however, did not take over as a full-time position until the 30th September, 1944, when he relinquished his position as Quartermaster-General.

The magnitude of the Board's operations is evidenced by the fact that from its inception to the 31st March, 1946, it disposed of assets to the value of £14,748,936, and, in addition, a further £2,000,000 to the 31st July, 1946.

It is advisable to give a short history of the position before the acquisition of the motor-vehicles by the War Assets Realization Board to supply the necessary illuminating background. This position was fully explored, but to avoid unduly burdening this report I will give a summary sufficiently adequate. The position prior to the 24th September, 1945, was that during the progress of active operations in the Pacific arrangements were made between the New Zealand Government and the United States authorities whereby American motor-transport vehicles which could not be reconditioned in the Islands would be sent to New Zealand for such work to be done. The work was carried out under contract by Messrs. General Motors, Todd Motors, and Ford Motors companies under the control and supervision of the Munitions Controller. Up to VJ Day a large number of vehicles had been reconditioned and returned to the Islands. Shortly after VJ Day the United States authorities decided to cancel the contract in respect of all vehicles on which work had not been started. At that stage the number of vehicles involved was approximately 2,500, and, with few exceptions, all these required a major overhaul.

On the 24th September, 1945, the United States authorities communicated with the Munitions Controller offering the vehicles at the following prices :—

G.M.C. trucks	..	..	..	..	125 dollars each
Dodge trucks	..	..	..	..	100 dollars each
Jeeps	..	..	..	..	100 dollars each

The offer was for the whole of the vehicles in one lot, and amounted to some £94,242. An offer was also made of spare parts at published list prices, plus 25 per cent. surcharge.

The position was then discussed between the Munitions Controller and the General Manager, and the Minister of Finance was interviewed, and his decision was that the Government should not purchase the vehicles unless it was established after further investigation that the work of reconditioning by General Motors as a means of keeping employed a large staff who would otherwise have to be discharged could be justified. The matter was referred to the Industrial Development Committee, and, in anticipation of that meeting, the General Manager, with the consent of the Minister of Finance, interviewed the major motor distributors, but found that they were not interested, although General Motors were at first prepared to purchase fifty G.M.C. trucks at 125 dollars each with a view to retaining their staff, but subsequently withdrew their offer. At the meeting of the Industrial Development Committee on the 3rd of October, 1945, the matter was discussed, and the Munitions Controller presented a summary of estimated costs and possible results of disposal and salvage.

The Committee's decision was against the purchase, and the United States authorities notified accordingly. Then on the 24th October, 1945, the United States Joint Purchasing Board officially notified this Board that the vehicles referred to were surplus to their requirements. In making such declaration it was the intention of the United States Joint Purchasing Board that this Board would undertake sale on their account. Accompanying this declaration was the following statement:—

The following list of vehicles have all been shipped to this section from more forward areas for complete tear down and rebuild. All the vehicles are used and require major repairs. Prior to the termination of the war these were considered economically repairable. The over-all U.S. supply situation following the end of the war now renders these vehicles surplus and uneconomically repairable.

At a meeting of the Board on the 29th October, 1945, it was agreed that before any recommendation was put to the Board full particulars should be submitted to Treasury Department for their comments and recommendations. Treasury was notified accordingly on the 30th October, 1945, with a summary of the position to date, combined with the report of the Munitions Controller. The next meeting of the Board was on the 6th November, 1945, when the General Manager reported that he had called a meeting to discuss the whole matter, such meeting being attended by representatives of Treasury, the Munitions Controller, and Transport Department. The meeting agreed that before any considered recommendations could be made to the Board the whole matter should be submitted to Treasury Department for its comments. Then followed the General Manager's report to Treasury on the 12th November, 1945:—

185/84

Wellington, 12th November, 1945.

Memorandum for—

The Secretary to the Treasury,
Wellington.

VEHICLES EX U.S. FORCES

1. Reference the 2,287 M.T. vehicles which have been declared as surplus by the U.S. Forces—detailed particulars as set out in the statement which accompanied my memorandum to you of 30th ultimo.

2. There are two or three syndicates who are interested in purchasing the whole range of vehicles, but such syndicates naturally desire certain information before they can submit any definite proposition.

3. I have represented the position to the Comptroller of Customs and requested him to advise me as to his requirements in respect to Customs duty and sales tax.

4. I have also communicated with the Commissioner of Transport to ascertain whether he will permit the use of these vehicles on the roads as left-hand drive vehicles.

5. I have further requested the Commissioner of Transport to let me have his views as to whether the Government should permit the sale of the vehicles "as is where is" without any obligation on the part of the vendors to ensure that the requisite parts for reconditioning are made available to the purchasers of the vehicles "as is."

6. In connection with para. 5 above, it must be remembered that only a limited number of the vehicles will be sold for "reconditioning" and many of them for breaking down only. Except for certain wiring and electrical parts it is reasonable to assume that most of the parts required for reconditioning would become available from the scrapped vehicles.

7. I wish to be in a position to give interested syndicates full information as soon as possible in regard to Customs duty and sales tax and the use of left-hand drive vehicles, but the important decision required in the first instance is as to whether the Government will permit the sale of the vehicles. This matter is in your hands for consideration and I should be pleased to have your decision as soon as possible.

8. If the Government gives permission for the sale of the vehicles and no satisfactory offer is forthcoming from any of the syndicates, then I am of the opinion, after consultation with the Munitions Controller, that the following disposal procedure would be worthy of consideration :—

- (a) This Board to arrange for a series of auction sales of the vehicles “as is where is.”
- (b) Following on (a) further sales to be made of tires, salvaged parts and scrap metal ex those vehicles not sold “as is.”
- (c) General Motors or some other approved firm to be employed at the expense of the U.S. authorities to effect dismantling to enable (b) to be carried out.
- (d) When action has been completed as in (a) and (b) the remaining salvage to be cleared from the site and dumped at the expense of the U.S. authorities.

I should be pleased to have your decision *re* para. 7 as soon as possible and any comments you wish to put forward.

(Sgd.) H. E. AVERY, Brigadier,
General Manager.

As the result of subsequent discussions with Treasury the General Manager reported to the Board at its meeting on the 4th December, 1945. The minutes set out: the General Manager stated that reports had been received from the Minister of Transport and Comptroller of Customs, and that the matter had been further discussed with the Treasury. It was understood that the Treasury had submitted proposals to the Minister that the Government should take over by way of purchase the whole range of vehicles for a lump sum of \$50,000. The General Manager pointed out that if such purchase were made it would involve the Board staff in a considerable amount of work and that it would not be possible to physically take over the vehicles earlier than the 20th January, 1946. He pointed out that there would appear to be only two methods of disposal as follows :—

- (a) The Board to invite offers :
- (b) The Board to sell by auction.

He recommended the first method be adopted, and offers invited for the whole range or, alternatively, for the complete range of each trade-mark or in lots of a specified number of vehicles. The report was received and further action deferred pending the decision of Government on purchase.

The General Manager was finally advised by telephone about the 22nd December, confirmed by memorandum on the 8th January, that Government had decided to purchase the whole range of vehicles at \$50,000. This was one item in a total purchase amounting to \$1,309,000. The General Manager reported that the Board had taken possession on the 9th January, 1946, and that the purchase included approximately 2,287 M.T. vehicles of various makes and substantial stocks of scrap material and metal and that a complete stocktaking was in progress. At a meeting on the 15th January, 1946, the Board decided that disposal action be taken in accordance with the Board minute of the meeting of the 4th December, set out above. It will be observed that the Board did not purchase—in fact, the regulations do not confer on the Board any power to purchase—but that this was done by the Treasury and the assets handed over to the Board for disposal. The evidence shows that the Board was aware generally of the events with regard to the vehicles up to the time of the purchase, but there is nothing in the evidence to justify any criticism of the Board or of its officers or of any other persons in relation to the purchase, and, in fact, no such criticism was made at the inquiry. The purchase in fact has turned out a most advantageous one for the Government. The motor-vehicles were war models specially built for military purposes and were the casualties of war service and in need of major repairs and radical

reconditioning. They were largely immobile, and many of them had been cannibalized for essential parts. The conditions under which the trucks operated are stated by Colonel Adamson in his book on the Ordnance Automotive Reclamation Project in New Zealand :—

When the U.S. Armed Forces arrived in the Pacific two and a half years ago motor transportation sprang to a position of first importance accompanied by obstacles hitherto unknown to modern armies. In an area comprised almost entirely of jungle-covered islands scattered over one-eighth of the world's surface without railroads or truck lines, without highways or bridges, trucks were forced to roll through mud, swamp, and coral while roads were being constructed. Vehicles and parts were critical, the tropical climate unpredictable, and maintenance units were either unavailable or long delayed in arriving, with no heavy maintenance shop committed to this area. Wholly disabled and critical vehicles began to accumulate. Such was the situation which prompted Army officials to make negotiations for the conversion of New Zealand automotive assembly plants into fifth echelon repair shops for the reconstruction of Army vehicles. Facilities for assembling the peacetime products of General Motors, Ford, and Chrysler were located in Wellington, and these facilities have become the greatest automotive clinic of the Southern Hemisphere. The undertaking is no superficial overhaul job. It is instead a task of complete reconstruction. Battle casualties, wrecks, and disabled vehicles are transported from eleven island bases and funneled into the dis-assembly lines at Wellington, where they are torn down to their smallest integral part. Caustic baths, sand-blasting, rethreading, regrounding, and replacement with new and reconstructed parts are but a few of the steps taken before the worn derelicts emerge as "new" vehicles. The word "new" is used advisedly, since by standards of both performance and appearance these vehicles are meeting every combat requirement.

The Munitions Controller states also that, after the first four hundred, the vehicles were all affected by salt water. The vehicles were densely parked in Gracefield Camp, Seaview—somewhere about half the Jeeps being loaded on the G.M.C. trucks.

This, then, is a general outline of the situation the Board was called upon to deal with in disposing of the vehicles.

I will now give a detailed summary of the Board's proceedings in connection with the disposal.

The following table shows the number of vehicles received by the Board and the number for which tenders were called :—

				Received by Board	Tenders called for.
G.M.C. trucks	..	..	..	1,234	1,225
Dodge trucks	..	..	..	420	420
I.H.C. trucks	..	..	..	3	3
Diamond T trucks	..	..	..	4	4
Jeeps	..	..	..	546	546
Cars	..	..	..	35	..

Of the above, nine G.M.C. trucks were transferred to the Public Works Department, and these were hand-picked for £5,055 (the value placed on the trucks was actually £7,866—the difference between these two sums being accounted for by the Customs Department being credited with 41½ per cent. for duty and sales tax as per agreement with the Board). Thirty-five cars were sold by tender in single units for £7,186, having been valued prior to sale at £2,220. No question arises as to the propriety of these two transactions.

The Board then proceeded to call for tenders, the following being a copy of the advertisement :—

WAR ASSETS REALIZATION BOARD

MOTOR VEHICLES (WRECKED AND INCOMPLETE) MOTOR PARTS AND SCRAP METAL ex UNITED STATES FORCES

TENDERS close with the Secretary, War Assets Realization Board, Defence Services Building, Bunny Street, Wellington (P.O. Box 5080, Lambton Quay), at NOON on MONDAY, 4th March, 1946, for the purchase of MOTOR VEHICLES (wrecked and incomplete) MOTOR PARTS & SCRAP METAL ex United States Forces located at the Holding Park, Seaview Road, Lower Hutt.

Lot 1 comprising approximately 1,225 "G.M.C." trucks.

Lot 2 comprising approximately 420 "Dodge" trucks.

Lot 3 comprising approximately 548 "Ford" Jeep trucks.

Lot 4 comprising approximately 200 tons Motor Parts & Scrap Metal.

The deposit to be lodged with each Tender is 5% of amount tendered.

Tenders must be addressed to Board's Secretary in sealed envelopes marked "Tender No. 318." Highest or any tender not necessarily accepted. Schedules of conditions may be obtained at the Board's Wellington Office, the office of the Board's District Executive Officers, Dilworth Buildings, Queen Street, Auckland, and Old Art Gallery Building, Durham Street, Christchurch; also at the District Offices of the Department of Industries and Commerce at Christchurch and Dunedin.

The conditions of sale showed that a person could tender for any lot or lots or any group of lots or all the lots, and that the various lots were offered for sale "as is where is," and that each purchaser should take delivery of the chattels purchased by him at the site on which they are at present situate. Tenders closed on the 4th March, 1946, and will be referred to in more detail later, and on the 5th March the General Manager reported and made recommendations to the Minister of Finance that Archibalds' tender for Lots 2 and 3 and Gillies' tender for Lot 1 be accepted, and that all offers for Lot 4 be declined.

At the Board meeting on the 12th March the Board resolved to endorse the recommendations of the General Manager, who further recommended that, in view of the substantial amount of the tenders, the Board should place the park and Store No. 13 at the disposal of the successful tenderers free of charge, and the Board resolved accordingly. The Minister approved of the General Manager's recommendations on the 13th March.

The successful tenderers were duly notified of the acceptance of their tenders, and then at the meeting of the Board on the 26th March the General Manager reported that Archibalds Ltd. desired to be released from their contract, and produced a letter from that firm's solicitors, and the Board resolved, on the General Manager's recommendation:—

- (a) That all previous tenderers be informed that the successful tenderer for Lot 2 (Dodge) and Lot 3 (Jeeps) were unable to proceed with the deal, and that therefore fresh tenders were invited for these two lots, either as a whole or as two separate lots:
- (b) That Messrs. Archibalds Ltd. be informed that should any amended tender which they care to submit be accepted, then the deposit already paid will be treated as part of the purchase-price, otherwise the deposit originally paid is to be forfeited.

It will be noted that there is no express mention in the minute of the Board's decision to release Archibalds, but that is left to be inferred from the minute as recorded.

At this meeting the General Manager also reported that Messrs. Gillies Ltd. had made an offer of £500 for Lot 4 (motor parts and scrap), and this offer was accepted on condition that the site must be cleared within nine months coinciding with the clearance of the vehicles from the park. The original tenderers (including Archibalds) were invited to submit fresh tenders for Lots 2 and 3, closing on the 17th April, and it was decided that all tenders be submitted to the Board meeting on the 30th April, and at this meeting the General Manager reported that the Minister had directed that before the tenders were dealt with a committee consisting of the Board's valuers and a representative of the Public Works Department must inspect and value all vehicles. This had been done, and the report of this committee was received. It was resolved, in view of the difficulties of making valuations as expressed by the committee, that it be a recommendation to Cabinet through the Minister that the highest tenders for the Dodge trucks and the Jeeps be accepted. On the 13th May Archibalds' solicitors wrote to the General Manager withdrawing the revised tender submitted by that firm for Lots 2 and 3.

At the meeting of the 21st May the General Manager reported that Cabinet had authorized acceptance of tenders as follows:—

Dodge trucks: C. R. Vincent. £26,050.

Jeeps: General Repair Service. £20,150.

A letter was received from Archibalds' solicitors requesting refund of deposit £3,165, and it was resolved that the previous decision be adhered to and the deposit forfeited.

At the meeting of the 4th June a further letter was received from Archibalds' solicitors asking for refund of deposit, and it was resolved to adhere to previous decision, but to submit the matter to the Minister before replying. A full report was made to the Minister, and he approved of the Board's decision, and at the meeting on the 18th June this was recorded and Archibalds' solicitors notified accordingly.

Before proceeding to examine in detail the conduct and actions of the members of the Board and its officers it is incumbent to set out the task which confronted the Board and its knowledge of the various factors which had to be taken into consideration and endeavour to visualize the position as it then existed.

The transaction was a unique one involving some 2,000 motor-vehicles densely packed in a camp at Seaview, somewhat graphically described as a graveyard of automotive derelicts, and all in need of major repairs and reconditioning. These vehicles had been specially built for war purposes and were of limited use for New Zealand's transport needs. Mr. A. G. Langley, service manager of General Motors (N.Z.), Ltd., was in charge of the reconditioning of the G.M.C. trucks, which took place over a period from April, 1944, to September, 1945, when some 1,600 vehicles were delivered at the works by the Americans. Nine hundred and seventy-nine were reconditioned, and, allowing for vehicles which were totally scrapped when the reconditioning scheme ceased, there were some 400 left at the plant, and these were towed to Seaview. When the vehicles arrived they were generally incomplete—some minus some of the tires and small parts missing. It was perfectly obvious that they had been severely used and had been in salt water. Some tires, due to flaking and rust caused by salt water building up the size of the rims, had to be sent to a firm with special plant for removing tires. It was necessary to rebore about 90 per cent. of the cylinder blocks, and of the remaining 10 per cent. very few did not require any attention at all, and the rest were scrapped. Transmission and transfer cases, rear and front axles, and universal joints had all to be dismantled and rebuilt. It was absolutely necessary to completely recondition the electric system and generators on account of salt-water immersion or the damage which had taken place. All brakes had to be removed for relining and drums ground because of coral dust chiefly; 60 per cent. of the tires were usable again. They did not pay very much attention to the mileage, although they did pay attention when it was remarkably low. There was one with a mileage of 700, but they still had to completely recondition it. The mileage gave no true indication as to the condition of any particular vehicle. The 400 vehicles towed away were not in the same condition as when they arrived, as they had robbed a lot of the parts to recondition others.

Mr. E. J. R. Signal, assistant production manager, Ford Co., gave evidence as to the Jeeps. He had also seen them operating in the Islands, and said that all the vehicles would have some salt-water immersion and corrosion. At the beginning of the scheme 90 per cent. were reclaimed, and this dropped to 60 per cent. The original Jeeps which had operated in New Zealand, and also the earlier ones sent back, were in a lot better condition than those reclaimed latterly. Seventy-five per cent. of the cylinders were rebored, and piston rings replaced 100 per cent., also wheel bearings, frames, and springs were very rusty and corroded. All springs had to be taken apart and reset by a blacksmith, and the rusty or pitted ones to any extent were discarded. The best of the vehicles at all times were selected to recondition. The Jeeps, in the main, deteriorated in similar parts, and spares were supplied by the Americans.

Mr. R. T. Cadwallader, production manager of Todd Motors, said his company reconditioned between 500 and 600 Dodges between April, 1944, and September, 1945. The condition, generally speaking, was very bad, with much evidence of immersion in salt water. In a lot of cases 100 per cent. actual new parts had to go in, but the average would be about 60 per cent. Universal joints and brake tubes 100 per cent. had to be renewed. Engine cylinders, with exception of less than 10 per cent., and to be rebored. Carburettors had to be completely dismantled and rebuilt. On one occasion they had to tear down twenty-four differentials to get the parts to build three. The track is wider

than the standard truck, and the axle shafts and so on are a different length, and, of course, not repairable by ordinary commercial spares. The tires are of an "orphan" type not used by any other vehicle.

Mr. Wright, sales manager for General Motors, wrote on the 2nd October, 1945, in answer to an inquiry by the Munitions Controller :—

As this type of truck (*i.e.*, G.M.C.) is generally unsuitable for New Zealand's transport needs, and as only a very small quantity can be sold for special types of work, such as timber and coal carting and for conversion to dump trucks, we regret we are unable to purchase these 1,345 G.M.C.'s involved.

Mr. Wright amplified these reasons :—

- (1) They are designed primarily for military use and have very limited commercial possibilities. This vehicle was designed in 1936 for military purposes and was never intended primarily as a commercial vehicle :
- (2) They are designed to carry concentrated loads on a small deck space or with trailer attachments :
- (3) They can only be used effectively in the timber, mining, and gravel industries, where it is necessary for the truck to be used off the road and in rough country :
- (4) In the four years 1937 to 1940 an average of only 220 trucks per annum of a four-ton capacity and over were sold in New Zealand—*i.e.*, trucks of all makes.

The G.M.C. is a military type with a driving front axle, and there is not another truck in the country of that type.

These vehicles had all been packed in the park by the American authorities—the majority having been towed and jammed against one another not only by being pushed forwards and backwards, but also sideways and somewhat battered in the process, and many with tires deflated and standing in pools of water and about half the Jeeps stacked on the G.M.C.s. All three companies engaged in reconditioning contracts had declined to purchase the vehicles. The cost of reconditioning rendered them unsaleable, and the vehicles had been specially built for war purposes and were unsuitable as commercial vehicles except in limited degree.

There was also the difficulty, if not impossibility, of obtaining replacement parts, and, in the case of the Dodges, the tire was of a special military size, an "orphan" and not manufactured at all for commercial purposes. Another consideration to be taken into account was the supply position in existence and prospective both as regards Army vehicles and commercial vehicles. This position is set out in the General Manager's report to the Treasury on the 30th October, 1945.

VEHICLES EX U.S. FORCES

1. The vehicles declared surplus by U.S. Forces are as follows :—

Cars	35
G.M.C. trucks	1,277
Dodge trucks	421
International trucks	3
Diamond T trucks	4
Jeeps	547
	2,287

2. All these vehicles are ex the Pacific and require major repairs. The contract for the reconditioning of the vehicles has been cancelled.

3. The U.S. Forces offered the vehicles for sale through the Munitions Controller at :—

G.M.C. trucks	..	..	..	\$125 = £42
Dodge	..	..	..	\$100 = £33
Jeeps	..	..	..	\$100 = £33

The total purchase-price therefore would be :—

1,277 trucks at \$125	..	..	\$159,625
1,010 others at \$100	..	..	\$101,000
			<u>\$260,625</u>

4. The Munitions Controller estimated the costs of reconditioning and putting the vehicles ready for sale as follows :—

			G.M.C. £	Dodge. £	Jeeps. £
Cost of vehicle	..	..	42	33	33
Parts for recondition	..	..	250	222	225
Labour for recondition	..	..	350	170	107
			<u>642</u>	<u>425</u>	<u>365</u>
Duty	..	..	150	136	106
Sales tax	..	..	160	118	38
			<u>£952</u>	<u>£679</u>	<u>£509</u>

5. The U.S. Forces are prepared to make parts available at published list prices, plus 25 per cent. surcharge.

6. With the approval of the Minister of Finance, the major distributors were approached to see whether they were interested in the purchase.

General Motors indicated that they were prepared to purchase 50 G.M.C. trucks under certain conditions, but subsequently withdrew the offer.

Neither Fords, Todds, or Dominion Motors are interested in the purchase.

7. Army Department has holdings of—

154 Jeeps.
582 G.M.C. trucks.

8. Attached hereto is a statement showing the approximate number of *used* trucks available from New Zealand sources, and also authorized importations of *new* trucks. The figures do *not* include the Army holdings of Jeeps and G.M.C. trucks not W.D. types, and there is likely to be a fair number of trucks and cars made available from those in use at present by U.S.J.P. Board.

9. The position *re* tires on the U.S. trucks is as follows :—

1,277 G.M.C. trucks at 10 tires per truck	..	..	12,770
Estimated unsaleable	..	..	<u>5,770</u>
Available for sale	..	..	<u>7,000</u>
547 Jeeps at 4 tires each	..	..	2,188
Estimated unsaleable	..	..	<u>988</u>
			<u>1,200</u>

Tires on other trucks not suitable for resale.

10. There are approximately 550 winches with the G.M.C. trucks for which there would be a limited sale of, say, £20 each.

11. During the reconditioning contract approximately 10 per cent. of vehicles were scrapped. It is estimated that for commercial purposes the number for scrap would be approximately 25 per cent.

Statement showing Approximate Number of USED Motor-trucks available from New Zealand Sources and Authorized Importations of NEW Trucks

—	15 Cwt.	1 to 2 Ton.	Over 2 Ton, Four-wheel.	Over 2 Ton, Six-wheel.	Special Types (Miscellaneous).	Total.
At vehicle reception depots awaiting sale	4	19	15	3	45	86
To be declared surplus by Army ..	141	167	110	1	161	580
To be declared surplus by Air Force*	130	24	150	25	30	359
Total used trucks	275	210	275	29	236	1,025
{ New trucks in New Zealand awaiting assembly	..	240	190	9	..	439
{ Importations authorized by Ministry of Supply to land up to 31st December, 1945, and later	558	405	761	579	0	2,303
	833	855	1,226	617	236	3,767
Import licenses in process of finalization (to land during 1946 as commercial orders)—						
Chevrolet	..	..	..	768	..	..
Ford	..	..	..	816	..	..
Dodge	..	..	..	285	..	..
Fargo	..	..	..	255	..	..
				2,124†	..	2,124
Total used and new trucks	..	..	..	..	..	5,891

* Figures approximate.

† Types and classes not available.

In view of the supply position and the deterioration the vehicles were exposed to in the conditions under which they were parked it was important that the vehicles should be disposed of as quickly as possible. It was also costing the Board £50 a week for guards. Another important consideration was that the vehicles should be completely disposed of so as to avoid the Government being faced with the trouble and heavy expense of dumping unsaleable residue, to which end the Board deemed it advisable to obtain bonds from the successful tenderers in the sum of £10,000.

It has to be emphasized that the Board's conduct has to be judged in the light of the knowledge it had or should have had in view of the circumstances, conditions, and outlook in the period in question, December to January, above set out, and not by the easy but fallacious standard of after events which has tinged a good deal of the evidence, particularly that of so called experts.

I have now to examine in detail the conduct and actions of the members of the Board and its officers, and in this connection the following questions have been postulated :—

Did the members of the Board and its officers act “carefully, diligently, in a businesslike and efficient manner, and with faithfulness to the interests of the State” in the acquisition and disposal of the said assets?

(1) In relation to the acquisition of the assets.

This may be shortly answered in the affirmative, as I have above fully set out the position.

(2) In selecting the time for the disposal of the assets.

There were two matters of outstanding importance in this connection—

- (a) The evidence shows that many of the vehicles were badly corroded with heavy rust and that rapid deterioration of all parts of the vehicles could be expected in the winter. No suggestion was made during the proceedings that the Board should have reconditioned the vehicles or that it could have got them under cover for the winter.
- (b) The import outlook was such that immediate realization was desirable.

In addition, there was the matter of expense—the cost of guards alone being £50 per week.

The Board acted wisely and prudently.

(3) In relation to the ascertainment of the value of the assets for the purpose of disposal.

The evidence shows that an individual mechanical examination and valuation of the vehicles was impracticable.

Mr. Signal, assistant manager, Ford Motors, speaking of the Jeeps, said :—

I personally would not have given an opinion on the value of any of those vehicles unless I had pulled the cylinder heads off, dropped the sump, inspected the bearings and gear box and transmissions. They were in such a condition that that would have been necessary. This type of inspection could not have been carried out on the vehicles parked as they were.

Mr. Wright, sales manager of General Motors, said it was impossible to offer an opinion on the value of the G.M.C.s in the condition in which they were sold. That to make an individual examination would require a very large number of highly skilled mechanics and mobile gear and would take a very long time. If they had started early in January it would not have been finished at the time of the inquiry (August-September). Mr. Ingram said it was impossible with the help of experienced men to have made a trustworthy appraisal under six months. It is easier for a salesman to appraise the value of a car than it is for an engineer. He kicks the tires and stands back and estimates what some person will pay him for it, but that is not an appraisal of a motor-vehicle having to make some commercial contribution to transportation. Mr. Goosman said he had never heard of the necessity of taking down a vehicle to make a valuation. This is no doubt so in the case of ordinary second-hand vehicles, but these were not of this class, but vehicles which had undergone the rigours of the islands campaign and been submerged in salt water.

The first-hand knowledge of the above witnesses shows that it was a matter of mere guess work to say what was the mechanical condition without dismantling and examining the various parts. It was also shown that the matter of mileage was an unreliable guide.

There remains, then, the question whether a rough appraisal or valuation was feasible. Obviously any such valuation would have been of a most speculative nature. It is hardly necessary to again point out the difference between these vehicles and ordinary commercial ones. Such valuation would have to proceed on the basis of prospective demand and estimate of the number of worthwhile vehicles which could be rescued from the mass.

The General Manager had reports from the Munitions Controller from time to time as to the condition of the vehicles supplemented by his own observations, and stated :—

I say without any hesitation that in my opinion it would have been impossible to have made any worth-while valuation of the vehicles short of an individual examination of each vehicle, which would have meant a complete rearrangement of the park, a detailed examination of the motor, and generally the mechanical parts of the vehicle. That was impossible by virtue of the condition in which the vehicles were parked.

It must be asked what were the General Manager's qualifications for expressing such an opinion. He had been a member of the accountancy profession and had held managerial positions in motor firms, but there is nothing to show that he had qualifications which would justify him in setting up as a valuer or entitle him to say that valuations could not have been made, and he had made no detailed inspection of the vehicles.

There is no record of the matter in the Board's minutes, but that is not unique, as I shall have occasion to refer to other matters of importance in which the minutes are defective and incomplete. Both Mr. Ewen and Mr. Hutchings speak of discussion at a Board meeting and of the General Manager's recommendation being approved. At a later meeting Mr. Hutchings is apparently not quite easy about the matter, and again raised the question of valuation and says there was some discussion, but his recollection of the matter is very vague.

The General Manager stated that the question of valuation had not been discussed by the Board prior to April, 1946, and that the Board accepted his statement that a valuation was impracticable. It is to be pointed out that only two members of the Board in addition to the General Manager visited the park.

It was submitted by counsel for the Board that the Board was justified in accepting the General Manager's view that a valuation was impossible. If he had been an expert in such matters there would be force in counsel's contention, but in view of the General Manager's lack of the necessary qualifications as above set out the Board was not so justified.

Mr. Gillies, the successful tenderer for the G.M.C. trucks, stated that the G.M.C.s were jammed together in five separate blocks. He went around the outside of each block and to some extent examined the trucks on the outer rim of the block and every truck on a diagonal line across the blocks. This was done by going over the top and climbing underneath them. He made an individual inspection of the Dodges, which were not packed so densely as the G.M.C.s. This consisted of examining the tires, trying the engines, and the general appearance. He tried the engines to see if they would turn by testing—one would hold the fan-belt and the other would turn the fan to check if they would move. Some of the bonnets would not open. This examination took two days, and all particulars were taken down by a typiste.

A similar cross-section examination could have been made of the Jeeps as with the G.M.C.s, although more difficult on account of the number stacked on the G.M.C.s.

The whole examination took a week, Mr. Gillies having the assistance of his foreman and a typiste.

Mr. Warner, a Board valuer, said he thought there should have been a valuation before tenders were dealt with, and that others should have been able to make a similar valuation to that made by Gillies.

Mr. C. R. Vincent, who on the second tenders was the successful tenderer for the Dodges, said he inspected the vehicles five times before submitting his first tender and made a summary valuation—there were too many vehicles to give an accurate valuation, but one could give a summary valuation with practical knowledge. On the occasion of the second tenders he made a detailed inspection of the Dodges with three assistants in some thirteen hours. The vehicles were numbered, and a list was made with notes against it.

My figure of £26,050 for the Dodges was not a stab; it was a careful figure. I wanted to be sure if I could, of out-tendering, as I thought, Mr. Gillies. My basis was that I had a summary of the vehicles and the number that were good and bad and fair, and that on a certain percentage of them there would be a complete loss, and I budgeted the whole thing out.

The next two tenders were for £26,010 and £25,627, showing that others were able to make a worth-while assessment.

Mr. George Laing, Government Inspector of Motor-vehicles, said it would have taken a week to make a cross-section valuation and about a month to make a more detailed inspection or appraisal of value.

Mr. Tidswell said it would take about two months for three to four men to inspect each vehicle externally and enable the material parts to be scheduled in detail—that is, you would know how much you had of all accessible details.

The Board also had, or should have had, before it the fact that nine G.M.C. trucks taken over by the Public Works Department had been valued by the Board's valuers.

We are not concerned with seven of these trucks as they were in running condition and had not been out of New Zealand, but the other two were from the group of war derelicts at Seaview and were valued at £600 and £550 respectively.

No doubt the question of valuation was a difficult one, for not only had the physical condition of the vehicles, the amount of cannibalization, and the number of vehicles which could be made mobile to be considered, but also the prospective demand for these war vehicles for commercial and domestic purposes and also the considerable liability for disposal of the useless residue.

However, taking all these considerations into account, the evidence above set out shows that a worth-while valuation, more or less rough of the G.M.C.s and Jeeps, and a detailed external examination of the Dodges could have been made by the Board in the time available before dealing with the tenders.

The General Manager was seriously at fault in recommending to the contrary, and the Board similarly at fault in facilely endorsing such recommendation and in failing to insist on such valuation, irrespective of the General Manager's recommendation.

Treasury Regulation 117 also bears on the question :—

The utmost vigilance must be exercised by all public officers who are concerned in the sale or disposal of Government property. A reserve price must be fixed where possible, especially in cases where goods are offered to the public. The sale must be advertised unless otherwise directed by the Treasury. Sales by private treaty will be permitted only if the conditions of sale are in accordance with the departmental rules approved under Regulation 111.

(4) In relation to the method of disposal of the assets, and in particular :—
(a) In selling by public tender.

The General Manager said that, first of all, the disposal by auction was thoroughly considered by himself in conjunction with Mr. Levick, the Executive Officer of the Motor-vehicles Section of the Board, before anything was put to the Board. In his letter to Treasury of November last he did suggest that in the event of no satisfactory offers being received for the whole range of vehicles, sales by auction were worthy of consideration ; but, having given that consideration, he came to the conclusion (very largely because of the condition of the vehicles, but particularly because of the way in which they were parked) that auction sales were impracticable. To have conducted an auction sale would have meant the complete rearrangement of the park, the handling of every vehicle, the rearrangement of them so that they could be handled, sold by the auctioneer, and inspected by the prospective buyers, and it was beyond the Board's organization and facilities to carry out that rearrangement of the park to make an auction possible ; in addition, assuming that that had been done, there would, in his opinion, have been absolute chaos in the operation of an auction sale, due very largely to the scramble of everybody to clear their vehicles from the site with the limited facilities that there are for doing so. He was also of the opinion that no auction sale was going to guarantee them a complete clearance of the whole range, and that the Board would certainly, after the auctions had been completed, have had a number of the worst vehicles and the scrap still left on their hands. That was paramount in his mind. After considering everything, he came to the conclusion that an auction sale was not desirable and would not give the Board the results that it was after.

Primarily the only rational way to auction motor-vehicles is to auction them singly or in small lots.

Witnesses were all agreed that this was not practicable in the conditions appertaining at the park. Mr. H. L. Carter said that there was not room to do it. You could not have different gangs of men working there. They would have been on top of one another. There would have been chaos in the place. There were Jeeps packed inside G.M.C.s, which were parked tightly together, the tires deflated, and brakes seized up. You could not move some of them. This view was endorsed by other witnesses. There was no suggestion made by any one that there should have been an auction by bulk lots in lieu of tender.

Mr. Goosman submitted, however, that there should have been a pilot auction of some vehicles to test the market. This, no doubt, would have weight if the vehicles had all been motor-cars or ordinary commercial vehicles in accessible condition, but such a sale of a few vehicles would not have solved the problem of disposing of the mass of material of the nature and condition in which it was in at the park. Only a proportionate part of the vehicles was merchantable, and the question of how many of this class could probably be disposed of had to be judged in the light of the trade outlook at the time as deposed to by responsible members of the trade, which outlook was then most lugubrious. The problem facing the Board and its duty was to have the whole mass, which was exposed to the weather and deteriorating, disposed of to the best advantage and to have the park cleared, and it has already been pointed out what a costly business was ahead in clearing the park of the useless residue. This witness had evidently not sufficiently addressed his mind to a comprehension of the circumstances and conditions obtaining at Seaview in December and January, and had the advantage of speaking in the light of after events.

My finding is that in this matter the General Manager and the Board exercised a sound judgment and discretion.

(b) In dividing the assets for the purpose of sale into the four lots into which they were in fact divided.

It has just been decided, as above set out, that the disposal in single units or small lots by auction was not practicable and, equally, such disposal by tender was not practicable, but the question remains whether the lots should not have been split up into smaller groups than was actually done and arising out of this whether sufficient consideration was given by the Board to such latter means of disposal. First, to deal with the question of adequate consideration at the Board meeting on 4th December, 1945, minute number 1380 sets out:—

4th December, 1945.

Minute No. 1380.

M.T. VEHICLES ex U.S. (185/84)

Reference Minute No. 1325, the General Manager stated that reports had been received from the Commissioner of Transport and the Comptroller of Customs, and that the matter had been further discussed with Treasury. It was understood that Treasury had submitted proposals to the Minister that the Government should take over by way of purchase the whole range of vehicles for a lump sum of \$50,000.

The General Manager pointed out that if such purchase were made it would involve the Board's staff in a considerable volume of work and that it would not be possible to physically take over the vehicles earlier than the 20th January. He pointed out that there would appear to be only two methods of disposal as follows:—

(a) The Board to invite offers,

(b) The Board to sell by auction,

and he recommended that the first method should be adopted and offers invited for the whole range, or alternatively, for the complete range of each trade mark or in lots of a specified number of vehicles.

The report was received and further action deferred pending the decision of Government to complete the purchase.

Then at the meeting on the 15th January, 1946, minute No. 1453 sets out:—

It was resolved that disposal action be taken in accordance with Board Minute No. 1380.

Now the Minute No. 1380 was in the alternative, so that there is no actual record of what the Board decided, which has to be gathered from the subsequent steps it took in disposal.

The General Manager stated that, "in the light of Minute 1380, Minute 1453 is incomplete and probably ambiguous. I wrote the minute, so I accept the responsibility for the wording. I am quite sure, however, that at this meeting on the 15th January (Minute 1453, which has reference to the alternative methods which I proposed in 1380) the third alternative—the selling in lots of some approved number as distinct from selling the whole of each trade-mark or the whole bulk—was discussed by the Board, and we reduced it to the first of two alternatives. The sale of the whole range of each trade-mark eliminated the sale of smaller lots."

And in cross-examination he said that there may have been some small discussion at the earlier meeting, but the major discussion was at the meeting on the 15th January (Minute No. 1453).

The Deputy Chairman, Mr. Young, said there was quite a considerable amount of discussion. The General Manager gave very fully his reasons in support of his recommendation. The witness thought that the discussion was at the first and not the second meeting, and then appears to qualify his answer on cross-examination when he said, "Those aspects were fully considered, but when I say 'considered' I am not prepared to say at this stage to what extent they were considered."

Mr. Ewen's evidence was very indefinite. His recollection was that the tenders should be called for in lots, but cannot remember exactly whether there was any discussion as to how the lots should be divided. Mr. Hutchings said he thought the Board dealt with the question of whether tenders should be invited for a smaller number of vehicles than each trade-mark, but he cannot say at which meeting; he also thought that the whole position was considered again after the December meeting, and further on he said he did himself consider the proposition of dividing the G.M.C. trucks into a smaller number of fairly large lots.

The Secretary, Mr. Conibear, said the discussion took place at both meetings. The General Manager's recommendation was that the motor-vehicles be sold by tender in one lot or in lots according to trade-mark, and supported his recommendation with reasons and there was a discussion on the point. It will be seen there is some slight conflict between the evidence of the General Manager and the Secretary, the former stating the discussion was at the second meeting, and the latter stating it took place at both meetings. It would not be fair to conclude that, because the recollection of the members of the Board is somewhat faulty and indefinite as to details of a transaction some six to eight months ago, and which is only one of very many they have to deal with, that due consideration as stated by the General Manager and the Secretary was not given to this subject.

Dealing now with the question of selling in smaller lots.

The weight of evidence is against the feasibility of selling in smaller lots or of selling the G.M.C.s in five separate lots, and in this connection the evidence of the successful tenderers, Carter and Gillies, who have actual working experience in the park, is of special value.

Carter states that the difficulties are that there was not room there to do it. You could not have different gangs of men working there. They would have been on top of one another. There would have been chaos in the place. There were Jeeps parked inside G.M.C.s which had tires deflated and brakes all seized up. You could not move some of them. He did not think it could have been done without moving the whole lot, which would have been a tremendous undertaking. You would want a big plot where you could put them into smaller lots to get round them, and would involve a complete sorting out of the vehicles.

Gillies said that with five lots he would not have liked to be one of the tenderers. With five working together in the park you are asking the impossible. Shifting the vehicles would be a tremendous job. A lot of the vehicles are lying in water, seized up completely in the brake-drums, and you have to lift them out with a crane.

Warner agrees with the above views, and says there would be chaos.

The evidence of these witnesses is a vindication of the recommendation of the General Manager and of the Board's decision to sell in trade-mark lots. Nor, assuming that it had been practicable to dispose of the G.M.C.s in five lots, does it necessarily follow that a better price would have been obtained. The lots would not be evenly composed. Some contained all the wrecks and others had more of the shorter than the more popular longer wheel-base. One witness claimed that a better tender would probably be obtained from one man who could control the market than the aggregate of five tenders from five different purchasers, each of whom would be in competition with one another with what was at the time an uncertain market.

This aspect of the matter was not before the Board, but it is not without interest to mention it in passing.

In this matter also my finding is that the Board was justified in its action.

(c) In adopting the conditions that are contained in the conditions of tender which were put in legal form by the legal branch of the Public Works Department.

It was submitted that a longer period than nine months should have been fixed for clearing the park. No doubt in the light of after events a longer period would have been an advantage. But the question is not really whether a somewhat longer period might have affected tenderers, but whether the time fixed was so plainly short that it should not have been arrived at by an ordinary board of business men considering the question. The evidence and the circumstances do not warrant a finding that the time was so unreasonably short that no prudent board of business men could have reasonably agreed to it.

The next point is the description of Lot 4 in the conditions of tender :—

Approximately 200 tons of scrap metal and motor parts.

Warner's report shows that this consisted of—

SCRAP METAL AT SEAVIEW

United States Joint Purchasing Board did not supply surplus return for scrap metal. Under-mentioned details and figures submitted by Mr. W. P. Warner (Motor Vehicles Valuer) on 17/1/46 :—

100 tons front and rear axle assemblies 6 x 6.

1,500 disc wheels 20 x 5, 20 x 6, 16 x 5, 16 x 7, 5 and 6 hole and two piece jeep type 16", &c.

15 tons springs front and rear.

5 tons tire chains; quantity wire rope.

100 tons spares, scrap, ball and roller bearings, crankshafts, cast iron, steel, &c.

9 cases axle assemblies.

Quantity chassis frames bare.

The short description was quite inadequate as a description in view of the valuable nature of portion of the material and shows a lack of due consideration by the General Manager amounting to a lack of due care.

(d) In the advertising of the conditions of tender.

These were advertised in the daily newspapers throughout the Dominion, and there is no ground for criticism of the extent of the advertising or the contents of the advertisement except in regard to Lot 4, which, mentioned above, was inadequate to sufficiently inform possible tenderers, particularly those at a distance. In fact, the evidence shows that some local people made inquiries as to the contents of Lot 4.

This also was a lack of due care on the part of the General Manager.

(5) In recommending to the Minister the acceptance of the tenders of which acceptance was so received.

The following tenders were received on the closing date, the 4th March, 1946, and the General Manager prepared the following schedule of the tenders :—

Schedule of Tenders for Vehicles Ex U.S. Forces

First Series Closing Date : 4th March, 1946

—	Block Offer for all Lots.	Lot 1 : G.M.C.	Lot 2 : Dodge.	Lot 3 : Jeep.	Lot 4 : Scrap.	Lots 1, 2, and 3.	Lots 2 and 3.
	£	£	£ s. d.	£ s. d.	£	£	£
F. Dewhurst ..	34,100	..	..	..	..	..	..
Finlayson and Co. ..	12,250	..	..	..	..	..	..
General Repair Service(a)	50,000	..	..	..	..	..	..
Bisley and Walling ..	27,000	..	..	..	..	..	..
G. T. Gillies, Ltd. ..	31,870	..	..	..	..	..	..
O'Fee and Co. ..	20,112	..	..	..	..	..	..
C. R. Vincent ..	33,000	..	..	..	..	..	..
Madden and Levin ..	..	16,250	..	..	..	..	..
G. T. Gillies, Ltd. ..	..	21,010	..	..	..	..	..
Turner and Growers ..	..	6,125	..	..	..	..	..
Campbell, Ltd. ..	..	..	6,426 7 0	..	..	..	..
New Plymouth Syndicate	..	..	9,003 17 3	..	..	..	..
G. T. Gillies, Ltd. ..	..	..	5,150 0 0	..	..	..	..
J. W. Thornton ..	..	..	225 0 0	..	..	..	..
C. E. Williams ..	..	..	1,428 0 0	..	..	..	..
A. R. Jensen ..	..	..	3,200 0 0	..	..	..	..
C. E. Smith and Co. ..	..	..	..	2,190 0 0	..	..	..
W. D. Winstanley ..	..	..	..	1,550 0 0	..	..	..
J. Gleeson ..	..	..	..	2,801 0 0	..	..	..
Hart Motors ..	..	..	..	2,250 0 0	..	..	..
General Repair Service	..	..	..	14,000 0 0	..	..	..
E. J. Glover ..	..	..	..	15,288 0 0	..	..	..
Campbell Motors ..	..	..	..	5,215 0 0	..	..	..
G. T. Gillies, Ltd. ..	..	..	..	4,110 0 0	..	..	..
J. W. Thornton ..	..	..	..	275 0 0	..	..	..
Alex Petrol Service(b)	..	..	..	5,801 5 0	..	..	..
A. R. Jensen ..	..	..	..	2,500 0 0	..	10,000	..
Turners and Growers..	..	..	..	3,822 0 0	..	..	..
J. W. Swanney ..	..	..	..	546 0 0	..	..	..
Archibalds Ltd. ..	..	..	..	..	..	..	63,252
Campbell Ltd. ..	..	..	..	..	75	..	..
Read and Co. ..	..	..	..	..	206	..	..
Alex Petrol Service(b)	..	..	..	..	410	..	..

(a) Subject to financial adjustments.

(b) Offer for scrap conditional on acceptance of offer for Lot 3.

The next meeting of the Board was on the 12th March, 1946, and the Minister had instructed the General Manager to submit the tenders to him before they were dealt with by the Board. The General Manager recommended the acceptance of the respective tenders of Gillies Ltd. and Archibalds Ltd. as per his letter of the 5th March, 1946, as follows :—

185/84
5th March, 1946.

MEMORANDUM for—

The Rt. Hon. Minister of Finance.

VEHICLES EX U.S. FORCES

TENDERS were called for the collection of vehicles taken over by the Government from the U.S. Forces. tenders being invited either for the whole collection of vehicles and scrap metal, or alternatively by lots as follows :—

Lot 1 ..	..	..	..	1225 G.M.C. trucks.
Lot 2 ..	..	..	..	420 Dodge trucks.
				3 I.H.C. trucks.
				4 Diamond T trucks.
Lot 3 ..	..	..	..	546 Jeeps.
Lot 4 ..	..	..	..	Approximately 200 tons scrap metal.

A copy of the conditions of sale is attached hereto for your information.

A number of tenders were received. These are set out on the attached schedule.

I recommend that the tender of Messrs. Archibalds Ltd. of 24 Oxford Terrace, Christchurch, should be accepted for Lot 2 (Dodge) and Lot 3 (Jeeps) at £63,252 and that the tender of Gillies Ltd. Thames Street, Oamaru, be accepted for Lot 1 (G.M.C.) at £21,010.

I further recommend that all offers for Lot 4 be declined and that we revert to our previous method of sale at a flat rate per ton. We were previously receiving £15 per ton.

Attached hereto is a statement showing the approximate financial position in respect to this transaction if my recommendations are approved.

I would be pleased to have your early decision so that the whole matter may be submitted to the next meeting of the Board to be held on the 12th instant.

H. E. AVERY, Brigadier,
General Manager.

Approved—W. NASH. 13/3/46.

With the letter was enclosed a copy of the schedule of tenders above and the tenders plus the statement for the information of the Minister showing the estimated realization for the whole transaction, if the recommendations contained in his memorandum were approved as under:—

ESTIMATED REALIZATION
Tenders—First Series

Cost: \$50,000	£15,600
Proceeds of sale by tender—	
(a) £63,252	} £84,262
(b) £21,010	
Proceeds of previous sales to P.W.D.	£5,055
	£89,317
Due to Customs Dept., viz.: 4½ per cent. on £84,262	£35,109
	£54,208
Add anticipated realization on 35 wrecked cars	£2,220
Approximate net realization	<u>£56,428</u>

At the Board's meeting on the 12th March, 1946, Minute No. 1637 sets out a full list of tenders:—

The General Manager reported that he had made a recommendation to the Minister that the offer of Archibalds Ltd. should be accepted for Lots 2 and 3 at £63,252, and that the tender of Gillies Ltd. should be accepted for Lot 1 at £21,010, and that all offers for Lot 4 should be declined and that the Board reverts to its previous method of sale of the scrap at a flat rate of £15 a ton.

It was resolved that the Board endorse the recommendations of the General Manager.

The General Manager recommended that, in view of the substantial amount of the tenders, the Board should place the park and store No. 13 at the disposal of the successful tenderers free of charge. It was resolved accordingly.

The Minister's approval was received on the 13th March, 1946, and the successful tenderers advised by telegram on the 14th March and confirmed by letter on the 15th March.

The above is an inverted procedure and tends to subordinate the Board to the General Manager. One would take it that the businesslike procedure would be for the Board to fully consider the General Manager's recommendation and then for the Board to make its recommendation to the Minister.

Would not the Board's sense of responsibility be stultified if the Minister had already approved of the General Manager's recommendation before the Board dealt with it, and what would be the Board's reaction in such case?

It must also be pointed out that the General Manager's recommendation to the Minister was of a purely formal nature amounting to nothing more than a recommendation to accept the highest tender in each case. Nothing was said of the apparent great discrepancy between the two tenders and nothing to put the Minister on the alert in this regard. In the event the Board actually dealt with the matter before the Minister's approval was received.

I have already found that the Board should have called for a valuation before dealing with the tenders, and this necessity was accentuated in view of the great disparity between the Gillies' and Archibalds' tenders, which should have given the Board occasion to pause and seriously to think.

The situation called aloud for investigation, and the Board had already before it the fact that two of the G.M.C. "war derelict" trucks had been valued by the Board's valuers for disposal to the Public Works Department at £600 and £550 respectively.

The Board in failing to do so courted trouble and showed a lack of businesslike care and judgment.

I will now set out the position of G. T. Gillies, Ltd., the successful tenderer for Lot 1.

Mr. G. T. Gillies, managing director, states that it is a private company, and at the beginning of the war was a garage and mechanical and electrical engineering business, and during the war devoted all their energies to the manufacture of munitions, turning out 160,000 2 in. bomb bodies and 7,000 cast-iron valves of 70 lb. each and 27,000 radio adaptors, and when the war ceased was left with nothing. He had three boys with a combined war service of fifteen years and twenty-seven men out of a staff of forty-five whom he had to rehabilitate, so became interested in tendering for the trucks.

The realization to date is as follows :—

	£
217 trucks sold for	76,810
7 trucks on terms	2,643
43 incomplete trucks dismantled and together with parts from scrap	7,704
	£87,157

Mr. Gillies contemplates a three-year selling period for such trucks as can be reconditioned for selling, and a further five years to dispose of parts.

On the debit side :—

	£
Crane and bulldozer	10,000
Premises in Dunedin for storage	13,000

(This latter item, of course, is not a wasting asset.)

Interest on capital, bank charges, fire and workers' insurance, and £200 per week working-expenses. In addition, there is the major item, clearing the camp, an undeterminable amount and for which he is under bond to the Board in the sum of £5,000.

The procuring of a vessel is contemplated to dump the residue.

(6) In recommending to the Minister that all offers for Lot 4 should be declined.

Here I may shortly state that the evidence showed that the General Manager and the Board were plainly right in making this recommendation.

(7) In placing the park and store No. 13 at the disposal of the successful tenderers on the terms adopted.

This may also be shortly disposed of. The evidence discloses no just ground of criticism of the Board or the General Manager on this point.

(8) In accepting the offer of £500 for the motor parts and scrap metal.

I have above set out the contents of this Lot 4, which contained materials of considerable value, and, though the evidence of value is not too clear owing to some of the sales by Gillies containing also scrapped material from Lot 1, the value was considerably in excess of £500 and the heap could easily have been valued, and in accepting this price without any valuation the General Manager and the Board failed to exercise due care. In so finding I am not overlooking the paucity of tenders for this lot when tenders were originally called for, but this paucity was probably due to the inadequate advertisement which I have dealt with.

(9) In releasing Archibalds from their contract.

In this connection several sub-heads were tabulated :—

- (a) Was the sum of £63,252 so far in excess of the value of Lots 2 and 3 that it would be inequitable for the Board to enforce payment of it by Archibalds Ltd. ?
- (b) If so, did the Board act with due care in not negotiating with Archibalds with a view to advising the Minister that a reduced sum be accepted ?
- (c) Did the Board and General Manager act with due care in considering the request of Archibalds for release from its contract ?
- (d) Did the General Manager act with due care in not suggesting to the Board that legal advice should be taken before deciding to answer the request of Archibalds for the release from their contract ?
- (e) Did the Board act with due care in not taking such legal advice ?
- (f) Did the Board act with due care in making and acting upon its decision to release Archibalds subject to the conditions regarding the deposit without first fully reporting the matter to the Minister and obtaining his formal direction ?

These questions cannot be conveniently dealt with categorically, but I will deal with the issues raised in one comprehensive review. Carrying on the history of the Board's actions from the date of the notification of the acceptance of the tenders as set out in paragraph 5 above, the General Manager arranged for the successful tenderers, Mr. Gillies and Mr. Archibald, to meet him to discuss arrangements for the joint use of the park. Archibald asked to see the General Manager before this meeting, and when they met Archibald said he was being financed by the Bank of New Zealand, and the General Manager was at liberty to communicate with the local manager, Mr. Ashby, for any information required. The General Manager did so, and was told the bank was financing Archibalds and gave a good report and said that any undertaking Mr. Archibald entered into the General Manager could rely on his carrying out. That the finance was in order and that the General Manager would be perfectly safe in giving Mr. Archibald possession of his vehicles in anticipation of the financial arrangements being completed.

There was then the meeting with Gillies and Archibald and arrangements made for the joint use of the park.

This meeting was on the 20th March, and Archibalds started in on their contract and disposed of two trucks (the proceeds of these were subsequently, after Archibalds' release, accounted for to the Board). Then, some date before the 26th March, Archibald called at the General Manager's office and said that he could not go on with his contract, that he had been misled by his advisers. The General Manager said he was sorry, but the Board would hold him to his contract. Next, a day or two later, but again before the 26th March, Archibald called again along with his solicitor, when the General Manager repeated what he had told Archibald himself, and said that if he had any special representations to make there was a Board meeting on the 26th March. A letter was received from Archibalds' solicitors on the 26th March, which stated :—

RE TENDER NO. 318—ARCHIBALDS GARAGE, LIMITED

We have been instructed to write you by Archibalds Garage Ltd. who were the successful tenderers in respect of Lots 2 and 3 in the above Tender No. 318, the accepted price being upwards of £63,000.

Mr. Alexander Archibald informs us that before the tender was submitted he made what turns out to have been a very cursory inspection of the vehicles at the Holding Park lasting not more than 1 hour to 1½ hours. Last week, after the acceptance of the tender, a more comprehensive inspection was made by our clients, and they then realized that they had made a serious mistake in submitting their tender, and that it was based upon an entirely inadequate knowledge of the condition of the vehicles which they had gained as the result of their first inspection. Our clients do not wish us to gloss over the fact that this inspection was most inadequate on their part, but they are now faced with the position where it would be disastrous for them if they are held to their tender. They have accordingly instructed us to inquire whether the Board would be prepared to release them from their tender.

From the knowledge our clients have recently gained as to the other tenders made, it would appear that there is such a disparity between our client's tender and the other tenders submitted as to make it obvious that our clients must have proceeded on a wrong basis. Indeed, they are given to understand that their tender for Lots 2 and 3 far exceeds the highest tender for all the Lots 1 to 4.

Our clients have charged all their assets to obtain funds to carry out the transaction and Mr. Archibald has made arrangements for financial assistance from his relations. It is now realized that the enforcement of the contract would involve them all in heavy loss and it may be in financial ruin.

Our clients suggest that in these circumstances the Government would not hold them to a contract which they entered into under a misapprehension and the execution of which would result in such heavy loss. They suggest that one of the following courses be adopted :—

- (a) That they be released from their tender, and their deposit returned to them, less the value of the vehicles they have removed from the Park. The Board would then be able to accept some other tender under clause 8 of the conditions of sale.
- (b) That they be given an opportunity of revising their tender and submitting a new offer, which they could do immediately.

Our clients have asked us to put the position before you quite frankly. While they hope they may be released from the present contract by the adoption of one of the courses suggested, yet if this cannot be done they will be obliged to resist the enforcement of the contract by every means available to them.

This letter was read to the meeting, and the General Manager recommended that Archibalds be released subject to conditions.

Minute No. 1699 reads :—

The General Manager recommended as follows :—

- (a) That all previous tenderers be informed that the successful tenderers for Lot 2 (Dodge) and Lot 3 (Jeeps) were unable to proceed with the deal and that therefore fresh tenders were invited for these two Lots either as a whole or as two separate Lots.
- (b) That Messrs. Archibalds Ltd. be informed that should any amended tender which they care to submit be accepted then the deposit already paid will be treated as part of the purchase price otherwise the deposit originally paid is to be forfeited.

The recommendation of the General Manager was approved.

The procedure of the Board and its actual decision call for serious criticism.

It seems hardly credible that a matter of such importance should have been disposed of in such a summary manner and with such remarkable expedition, but the facts are only too clear. The General Manager received the letter half an hour before the meeting. He read over the letter and made his recommendations—this was all the information the members of the Board had and, as stated by the General Manager and the Deputy Chairman, there was very little discussion. No question was raised, and the Board was unanimous. Mr. Hutching's evidence is to the same effect. As is evident, no record of the Board's decision was made in the minutes, but that is left to be inferred. The Board made no report to the Minister, nor did it direct any one to report and no communication was received from the Minister. A reference to the minutes confirms there could have been little time for discussion or consideration. The meeting lasted some two and a half hours, during which some forty-four matters were disposed of as recorded in the minutes—the record covering some thirteen typed foolscap pages. It will also be noted that the General Manager had reversed his attitude of the previous two days when he had told Archibald, and again his solicitor, that the Board would hold him to his contract.

When application was made to the Commission to admit some indirect evidence as to the Minister's knowledge it was objected to and refused. At a later stage I asked counsel for the Board if he intended calling the Minister, and when he replied in the negative I publicly recorded a minute as follows so that the Minister would be apprised of the position and could give evidence if he wished :—

I have to make reference to the application to tender indirect evidence in respect of the Right Honourable the Minister of Finance. Application was made to the Commission to admit evidence of a report of the Board's decision on the question of the release of Archibalds by a member of the Board to the Minister and of the opinion expressed by the Minister thereon. I use the word "opinion" and not "decision" advisedly, as the release of Archibalds had already been legally finalized by the decision of the Board. For obvious reasons, the admission of such secondary evidence was refused.

If I viewed the evidence of the Minister on this point as of sufficient importance, then it would be my duty to require his attendance before the Commission, making, of course, such arrangements as would least interfere with his important public duties. But my considered opinion is that such evidence is not of sufficient importance to warrant this course, as the propriety or regularity of the Board's conduct is not to be determined by an *ex post facto* opinion which may have been expressed by the Minister.

The General Manager gave as his reasons that he was looking at the matter from the best interests of the Board. He was not considering Archibalds. He formed the opinion that in the circumstances the Government would have been loath to force Archibald to his contract, and in view of the last paragraph of the solicitor's letter came to the conclusion that any attempt to hold Archibald to his contract would have meant litigation, probably extensive litigation, and that the net result would have been considerable delay in the disposal of the Dodges and Jeeps.

Obviously if the General Manager was affected by this final paragraph he was not justified in making any recommendation or taking any steps without legal advice, and failure to do so would be a serious breach of duty. The Deputy Chairman, Mr. Young, had no qualms about the legal position. He said this veiled threat of legal proceedings would have no effect on any member of the Board. Obviously this was a mere *brutum fulmen*, the sort of blank charge a lawyer fires when destitute of ammunition. At no time was any serious question raised as to the validity of Archibalds' contract. Mr. Young says the Board released Archibalds on the other grounds stated in the solicitor's letter. The Board's action must be faulted on several grounds. In the first place the Board was in the position of a trustee of public moneys, and quite clearly had no right to forgo a legal claim to moneys which could only be done by the Minister or Cabinet. It must be pointed out that it was not a question of compromising a doubtful legal claim, to which different considerations would apply, but a matter of a simple liability on a definite contract. The duty of the Board was to make a recommendation to the Minister, but before doing so its clear duty was to fully investigate the position and the grounds of the application.

The first ground put forward is that of cursory inspection of the vehicles of one to one and a half hours.

As to this it should be pointed out that Archibalds had the same opportunity of inspection as other tenderers. Also that this is in conflict with the first reason given by Archibalds to the General Manager that he had been misled by his advisers.

Then the financial position was also a matter for investigation. Archibalds was a limited-liability company whose financial stability had been vouched for by their banker. Then, clearly, the question of whether they had overbid, and, if so, to what extent, was an important factor. Absolutely no inquiry was made by the Board; it has already been pointed out that there had been no valuation by the Board which was completely in the dark except for such light as might be said to be shed by the tenders.

Now the evidence shows that the amount of the successful second tender of Mr. Vincent for the Dodges was £26,010 and his gross return on realization £50,000, giving a profit of £18,990.

The position of the second tender for the Jeeps, £20,150. Mr. Carter has sold 297 for a gross sum of £30,345 15s. and expenses £2,800. Of the balance of 238 he states 84 are total wrecks, and of the remaining 152 he does not expect to realize the same figures, having already sold the best.

Warner, a valuer for the Board, and whose position will be referred to later, said that he told Archibald in October, 1945, that if he bought the stuff—*i.e.*, all the material in the park, including the G.M.C.s—for £100,000 he would have a good buy. When Archibalds' tender was accepted, Warner arranged with Archibald in Christchurch to assist in disposal, and proceeded to Wellington and told Levick what he was going to do and expected to be away for three weeks, and that Levick raised no objection. Archibald got a license from the Fuel Controller for 70 gallons of petrol for Warner to sell in the northern districts. Warner proceeded on his rounds, and in five days had

contracts for sale of 231 vehicles when he was recalled to Wellington by Archibald, who said he had been told by a man, Holmes, up from Christchurch that he had paid too much, and that he (Archibald) had cancelled his cheque and asked to be released from his contract. Warner said his commission on the vehicles already sold would amount to £1,000—*i.e.*, 2 per cent. on £50,000. In view of this evidence Archibalds' application for release was precipitate. Warner considered his total commission at 2½ per cent. would have been between £3,000 and £4,000 on the rest of the saleable vehicles.

In view of the amounts subsequently realized by Vincent and Carter this latter estimate would appear optimistic to the height of extravagance. The Board, of course, could not have had the benefit of the above evidence (except, perhaps, Warner's) when Archibalds were released in March, but the point still is that they acted with needless and undue precipitancy and failed to explore the position in the matters above set out and were not in a position to make any recommendation to the Minister, and there was a serious dereliction of duty on the part of the General Manager and the Board, first, in releasing Archibald off their own bat without reference to the Minister, and, secondly, in failing to fully investigate the position and report the result to the Minister with the Board's recommendation.

Without such full investigation the Board was not warranted in taking any action, so it would not profit to speculate what such investigations would have revealed to the Board and what action should have been thereon or whether some arrangement for realization and sharing any loss with Archibalds should have been made. Nevertheless, it should be pointed out that a proper investigation might have revealed the dealings of the Board's own valuer, Warner, with Archibalds', and Warner's evidence showed that Archibalds stood to make no loss, which is confirmed by the subsequent dealings of Carter and Vincent, the successful second tenderers. Further, that the claim for release from their contract by Archibalds in the circumstances stated by Warner, he having already made sales amounting to £50,000 in four to five days, would have given them no claim to indulgence by the Crown.

The ultimate loss to the State was £13,887.

(10) In adopting the provisions which are contained in the conditions of further tender.

This relates to the time of nine months to clear the site. I do not see that the Board could well have fixed a longer period, as this was the period fixed in connection with the much heavier job—the G.M.C.s—and if a longer period had been fixed for the smaller jobs Gillies would then have had a legitimate grievance and claim for extension. Further, there is no evidence that a longer period was really necessary for the smaller jobs, and the Dodges were actually cleared in five weeks.

(11) In affording only the previous tenderers the opportunity of submitting further tenders.

The Board had to consider the question of delay and its consequences which would have been caused by advertising, and I consider the Board exercised a reasoned and reasonable judgment in this matter. There is one matter, however, which does invite criticism. Archibalds were invited to submit fresh tenders, and their forfeited deposit (£3,165) on their first tender was to be applied as a deposit if their tender was successful.

In short, £3,165 of Crown moneys were to be applied as their deposit, which would give them a £3,165 start as against other tenderers. This might have created a situation justly evoking comment. However, Archibalds were not the successful tenderers. Also, no doubt sensing the implications of the position, their solicitors wrote as follows withdrawing their tender :—

We have been instructed by Archibalds Garage Limited to withdraw the revised tender submitted by that firm for Lots 2 and 3. We shall be obliged if you will take this letter as notice of withdrawal of the tender.

Some publicity has been given to this matter and the Company feels that in the light of this unpleasantness it would be better if they were not associated with the matter any further.

(12) In recommending to Cabinet, through the Minister, the acceptance of the further tenders of which acceptance was so recommended.

The following tenders were received :—

Tenders—Second Series
Closing date : 17th April, 1946.

Tenderer.	Lots 2 and 3.	Lot 2.	Lot 3.
	£	£	£
C. H. Campbell, Ltd.	44,115	25,627	18,488
W. R. O'Fee and Co.	43,650	..	19,300
Archibalds' Garage	32,000	..	..
Bisley and Walling	27,000	..	..
G. T. Gillies, Ltd.	26,010	..	..
A. P. Finlayson	25,298	..	..
A. R. Jensen	15,120	10,010	5,110
C. R. Vincent	..	26,050	..
General Repair Service	..	..	20,150
Turners and Growers	..	..	5,460
Hart Motors	..	..	5,050
J. W. Thornton	..	..	2,000
C. E. Smith and Co.	..	..	3,500
E. J. Glover	..	..	16,517

At the Board's meeting on the 30th April, 1946, these were dealt with. Minute No. 1761 sets out :—

M.T. VEHICLES EX U.S. FORCES. (185/84)

1. Schedule of tenders for the Dodge trucks and Jeeps ex U.S. Forces was received.

The General Manager reported that the Minister had directed that before the tenders were dealt with a Committee consisting of the Board's valuers and a representative of the Public Works Department must inspect and value all the vehicles. The report of the Committee was received.

It was resolved, in view of the difficulties of making valuations as expressed by the Committee, the time that it would take to do so, and the approach of winter, that it be a recommendation to Cabinet through the Minister that the highest tenders for the Dodge trucks and Jeeps be accepted.

2. A communication from Mr. Langstone, M.P., to the Prime Minister was read with reference to the general question of the Board's handling of the disposal of vehicles ex U.S. Forces.

It was resolved that the General Manager should submit a draft reply to a special meeting of the Board to be called as soon as such draft reply had been circulated to members of the Board.

The valuers' report referred to is as follows :—

Wellington, 26th April, 1946.

The General Manager,

War Assets Realization Board.

VALUATION OF WRECKED AND INCOMPLETE MOTOR-TRUCKS SCHEDULED IN LOT 2 AND 3, TENDER NO. 318 : PRELIMINARY REPORT

On receiving your instructions to value the above motor trucks we visited the Holding Park, Seaview, Lower Hutt, to commence the valuation.

After viewing the wrecked vehicles we are of the opinion that we should submit this preliminary report to W.A.R.B. and receive further specific instructions before proceeding further in the valuation of the vehicles.

All the Dodge trucks are stacked fender to fender in large blocks approximately 24 trucks square except in a few isolated cases and those Jeeps that are stacked on the ground are packed together in a similar manner. Approximately fifty per centum of the Jeeps, however, are loaded on top of the G.M.C. trucks belonging to Mr. Gillies and here again the G.M.C. trucks loaded with Jeeps are packed in large blocks and touching each other. Furthermore these Jeeps are wedged well down in the G.M.C. truck bodies.

We have been asked to value each vehicle individually and to do this it will be necessary to separate each vehicle with at least two feet between each to allow for inspection of the under gear, chassis, &c.

There is not sufficient room in the Holding Park to allow of this physical separation as all available space is now occupied with the vehicles packed touching each other and some loaded on the G.M.C. trucks.

From the cursory examination we have already made it is noted that many parts of the vehicles are missing, some vehicle parts are corroded right through with very heavy rust in places, and on others heavy laminated rust corrosion appears, and many tires are deflated, lying in water, and are perished, also many tires are missing.

Judging from the above condition of the vehicles we make a purely tentative estimate at this stage that three trucks would be required to get all the necessary parts to make one complete truck, but the estimate neglects the bodies which will require re-building in most cases.

We consider that the valuation can only be carried out by one of the following methods :—

1. A complete and thorough examination of each vehicle with a firm value placed on each.
2. A cursory examination of each vehicle with a purely estimated value placed on each.
3. A purely estimated bulk value of the vehicles as a whole by guesswork after viewing the vehicles 'in situ', or separated temporarily.

We would like to point out what is involved in valuation of the above three methods :—

Method 1 : This is the only method whereby we can accept responsibility for an accurate valuation.

Assuming that three valuers will be employed full time we will require three Army sheds in which to carry out the examination of each vehicle. This is necessary as the vehicles are laying in water in the Holding Park for weeks after rain and with the worst months of the year coming on it is obvious that a detailed examination of vehicles must be carried out under cover. Three mobile cranes with drivers and three labourers for loading each crane will be required. Six mechanics will be required to go over the vehicles and strip parts where required for examination. Typed reports would be required for each vehicle stating condition, faults, missing parts, &c. We estimate the time required to do this work with the above staff and equipment would be six months. We would point out, however, that when the vehicles are separated and taken off the park and the G.M.C. trucks belonging to Mr. Gillies, where they are present located, they cannot be taken back and stored in the Holding Park as there is not sufficient room to do this, nor do we think there is adjacent space in which to store these vehicles particularly as they would require sufficient space around them to allow prospective buyers to view them. Even if room were available for such spaced storage a considerable number of guards would be required night and day to prevent the vehicles from being robbed of parts.

Method 2.

This would be similar to Method 1 except that a cursory examination only would be made with three mechanics, three mobile cranes with drivers, three labourers, and three valuers employed. *No accurate valuation could be made by this method.* The estimated time for this work would be three months. The same remarks apply in this case as in Method 1 regarding insufficient room for the vehicles to be taken back to the Holding Park and spaced out for prospective buyers to view. Also guards would be required to guard the vehicles as in Method 1.

Method 3.

A. The vehicles can be separated temporarily by mobile cranes for quick examination for missing parts, &c., reports made out on each, and the vehicles replaced in their present locations. This method is entirely dependent, however, on Mr. Gillies agreeing to the Jeeps being lifted from, and replaced on his G.M.C. trucks. On account of the work involved, also the possibility of damage to his trucks, and as Mr. Gillies requests that the Jeeps be taken off the G.M.C. trucks as quickly as possible, we do not think he will allow this lifting and replacing of Jeeps after examination. Three mobile cranes with drivers, three labourers, three mechanics and three valuers required. Time required approximately 8 to 10 weeks, depending on the weather.

B. Alternatively, the vehicles would be viewed where they lie and examination of accessible parts only made by three mechanics and three valuers. It is stressed, however, that this examination would be most unsatisfactory as many parts are missing from underneath the vehicles and naturally these would not be noted by this method of examination. Time required 4 to 5 weeks in favourable weather.

C. As a further alternative a quick bulk appraisal only of the vehicles would be made 'in situ' by the three valuers alone, neglecting examination for missing parts other than those obvious to the eye. Time required 2 to 3 weeks, weather permitting.

In A, the examination would be most perfunctory with an estimated bulk value accordingly. In B and C, the bulk valuation would be by guesswork only. Accordingly all valuations in A, B, and C would be looked upon only as an indication or guide to the value.

We have pointed out the results that can be obtained and what is involved by the three methods of valuation of the vehicles and we would now be pleased to receive your direction as to which method the Board desires we should adopt.

Having made a cursory examination of the vehicles at Seaview we submit the following remarks for the consideration of the Board.

Many of the vehicles are very badly corroded with heavy rust, also a considerable number of tires are perished and rapid deterioration in all parts of the vehicles can be expected from now onwards with the wet winter months coming on.

It is therefore recommended that the vehicles be sold as quickly as possible before they further rapidly depreciate in value.

Many chassis frames and parts are badly corroded with rust and in some cases they are probably unsafe. Furthermore many parts are no doubt faulty and all such faults may not be detected even when the parts are examined, but may develop to the point of failure after a short period of use.

Under these circumstances we strongly advise that the Board should sell the vehicles in one lot and not individually and thus place the risk of faulty parts on the bulk purchaser. We feel that in the event of sale by the Government of individual trucks, there would undoubtedly arise, in quite a number of cases, the question as to whether the Government, being the seller to an individual, should assume moral responsibility for repairs and replacement of faulty parts even though the vehicles are sold "as is" and "where is." This aspect is actually borne out by our past experience.

If the selling of individual trucks should be decided upon then it is essential that the vehicles be separated and spaced out so that they can be viewed by prospective buyers and also in order that delivery of trucks to buyers can be given promptly and without damage to other trucks. As previously stated this spacing of trucks involves the use of a large area of ground for storage space, which is probably not available at Seaview, and also the provision of guards for the vehicles day and night.

If vehicles are to be sold individually 'in situ' this will mean that large numbers of prospective buyers will be climbing over and upon all of the trucks to pick out the best vehicles and much damage will therefore be done on all vehicles, and in the case of the Jeeps we feel quite certain Mr. Gillies will not allow buyers to clamber over and damage his G.M.C. trucks, in order that they may view the Jeeps.

Also in the case of individual truck sales buyers would want to take delivery of their vehicles practically simultaneously and with closely packed and double loaded vehicles the task of owners wanting to get vehicles from the middle or anywhere in a block of vehicles, all at the same time and with no room to work in, would be most difficult. In fact conditions would be chaotic and much damage to vehicles would result.

(Sgd) WILLIAM COOK, P.W. Dept.
26/4/46

(Sgd) H. BENGE, N.Z. Railways.
26/4/46.

(Sgd) W. P. WARNER, W.A.R.B.
26/4/46.

The General Manager said, "I arranged for the three valuers to see me. I conveyed to them the Prime Minister's instructions." (This is not quite correct—Warner was not present.) "I gave them the picture of what had happened. It was not necessarily known to them of the general arrangement whereby we had taken these vehicles over, and I went further and I did tell them that I have previously recommended to the Board that the valuation was impossible. I said, 'You have a tough job, go to it.'"

A critic might suggest that this was inviting the valuers to report in a certain direction. It must be said, however, in fairness to the General Manager, that he volunteered this statement, to which none of the others made reference, so I am disposed to regard it rather as the ill-advised remark of an opinionated individual quite satisfied with his own view. Cook and Benge proceeded to the park to make the valuation, and spent one and a half days in examination. It was asked could it have taken them one and a half days to decide that a valuation was impossible for the reasons given in their report.

The next day Cook prepared the report, and then Warner, who had inspected the vehicles at an earlier date, arrived and discussed the report with them for several hours, when it was adopted with minor alterations, Warner stating that method 3, clause (c), was inserted at his instigation.

Now the valuers were only asked to value, but took upon themselves to "strongly advise" the Board at some length on the question of bulk sale, which was purely gratuitous on their part.

The General Manager stated that was not part of their functions. They saw fit to write it into their report.

It was asked why this excess of zeal on their part unless to vindicate the General Manager?

And it is to be noted that this was all written into the report before the other two met Warner.

In assessing expert opinion it is well, where possible, to apply the acid test of actual fact, so I must again refer in detail to the valuation made by Gillies of the Dodges. He said, "We examined every Dodge. We got around and examined the tires, tried the

engines to see if they would turn by testing, one would hold the fan belts and the other turn with the fan to try and check if they would move. Some of the bonnets would not open. We looked at the tires, tried the engines, and the general appearance."

This examination took his foreman and himself two days, and details were taken down by a typist. This examination enabled him to put an approximate value on the trucks.

Vincent made a similar detailed examination and valuation of the Dodges, and both also speak of making a cross-section examination of the Jeeps in a few days.

This evidence is in marked contrast to the valuers' report. Also the statement in the report that a large area of land would be required for storage which was probably not available at Seaview is without justification, as there is a large area of vacant Crown land which inquiry would have shown to be available.

Warner admits that he knew that there had been an individual marking-up of the Dodges and Jeeps by Archibald, and there is also his evidence that he had made contracts of sale for 231 vehicles for £50,000 in four to five days. Then there is this curious passage in Warner's evidence when the valuers were discussing the draft report:—

I said that as we were making an excuse not to value the stuff it would look as if the report was inspired and we would all look foolish. What went through my mind was that if we valued that stuff the price that Gillies paid for G.M.C.s would look silly.

The three valuers then presented the report to the General Manager, and it was the subject of a social occasion.

Counsel severely criticized the report and the surrounding circumstances, and submitted that it was not a *bona fide* report, but more concerned with a vindication of the General Manager.

While the report certainly bears the imprint of special pleading and is discredited in so far as the Dodges are concerned, by the evidence of Gillies and Vincent as to the individual examination *in situ* made by each of them, the circumstances hardly warrant a positive finding as regards Cook and Bengé. But Warner's case is different. He knew an individual price had been placed on the vehicles by Archibalds, and he himself had sold a portion for £50,000. He would have better employed himself in embodying this valuable information in the report rather than in gratuitously concerning himself with the matter of bulk disposal, and he was guilty of a serious dereliction of duty.

The Board, then, was presented with this sterile and negative report, and, though it was stated to be a preliminary report, its whole tenor was that a worth-while valuation was not possible in a reasonable time, and it stressed the rapid deterioration of the vehicles. In these circumstances, as the Board had no reason to challenge the validity of the report, it can hardly be adversely criticized for recommending the acceptance of the highest tenders.

(13) In not selling the tires separately.

The evidence shows that this was not feasible. In view of the manner in which the trucks were parked it would have been a costly and difficult business to remove the tires, and in the process many would be damaged. The number of usable tires could not be ascertained until the trucks were shifted, and there was no organization or staff to carry out that work, and if the tires had been removed there would have been the problem of dealing with a still more immobile mass of trucks. It was not seriously suggested at the hearing that the tires should have been sold separately, and in view of the position above set out no complaint can justifiably be made against the Board or the General Manager for not so doing.

(14) In not selling the winches separately.

A similar position applied to the winches as regards access, and in this case there was also the question of limited demand which would have involved a long period for disposal.

A similar answer as above can be made to this question also.

(15) In not acquiring the spare parts.

When the U.S. authorities offered the vehicles as per their letter of the 24th September they also offered to sell spare parts at published prices, plus 25 per cent. surcharge. However, when it was first decided that the New Zealand Government would not purchase the vehicles the U.S. authorities received instructions to ship the parts to the U.S.A. The parts were accordingly packed and transferred to the U.S. stores at Aotea Quay, Wellington. Shipping instructions were later cancelled, and the authorities again approached the Treasury with a view to purchase by the New Zealand Government. The General Manager was instructed to investigate the matter and report. The General Manager reported as under :—

185/94

Wellington, 28th January, 1946.

Memorandum for—

The Secretary to the Treasury,
Wellington.

M.T. PARTS OFFERED BY U.S. AUTHORITIES

WITH reference to the large volume of M.T. parts surplus to the requirements of U.S. Forces and which have been placed under offer to the New Zealand Government. These parts consist of G.M.C., Dodge and Jeep.

As requested by you I have investigated the matter thoroughly and I now strongly recommend that the parts should *not* be taken over by the Government for the following reasons :—

- (1) The quantities are excessive for all requirements for the models in New Zealand.
- (2) G.M.C. spares. There are approximately only 40 of these vehicles operating in New Zealand and the parts offering are in the main suitable only for the war model vehicles similar to those wrecks taken over and located at Seaview. In any reconditioning scheme there would be sufficient parts from vehicles beyond repair to supply necessary requirements. The sale of G.M.C. trucks is discounted by General Motors in New Zealand.
- (3) Jeep Spares. The same applies to Jeep as to G.M.C., and Jeep being a special war time vehicle, production has ceased for all time.
- (4) Dodge parts. Sufficient quantities of parts are already held in New Zealand for servicing these vehicles.
- (5) The fact that Army Department hold considerable stocks of Dodge, G.M.C. and Jeep parts must be borne in mind and stocks of these parts, both Lend Lease and non-Lend Lease will eventually become available. A very comprehensive schedule of Dodge parts has already been declared by Army (non Lend Lease) and it is certain that the New Zealand trade will not be able to use the quantities Army have for a very long time.
- (6) Quantities of individual parts are far in excess of requirements for the particular make of vehicle and could not be used for any other make.
- (7) A large quantity of ball-bearings are included in the stock. Timken type predominate and are not the popular sizes in good general demand either by the Motor Trade or by engineering firms for industrial work.
- (8) From information received there is still not full coverage in this huge stock to replace all the requirements for the vehicles the parts are made for. The parts in most demand are in the lesser quantities and the slow moving parts are much in excess of fast moving parts.
- (9) An example of excess is shown in the Dodge list where a very expensive item is scheduled. This refers to crankshaft assemblies. The quantity under offer is 226, whereas the normal stock requirements for New Zealand for four years is 5 only. This applies to many other items.
- (10) A very large quantity of bolts and nuts are included, all of which could be used for general purposes outside the Motor Trade but present holdings must come into consideration.
- (11) While many parts would be required the excess stock that would never be used must be actually wasted as it would be no good for any purpose whatever.
- (12) It would take months to even try to sort out the parts as they are at present stored and packed. The cases are not numbered and search for any particular item or items would be very difficult.
- (13) Apart from the purchase price, the cost of physically taking over, sorting, setting up, storage, cost of bins and general handling would be very high, and would not be compensated for by the amount of sales made for the first year or two.
- (14) Cost of upkeep would continue indefinitely and thousands of pounds worth of parts would never sell. Special staff would be required, both technical and clerical.
- (15) Munitions Department have issued schedules of surplus body parts for Jeeps and G.M.C. vehicles which are held in a finished and unfinished condition. These represent the remains of unfinished contracts that were in hand when the war ended. All these parts should be useful to prospective purchasers of the vehicles taken over from the U.S. Authorities.

(Sgd.) H. E. AVERY, Brigadier.

General Manager.

This report deals fully and adequately with the matter, and in view of the position thus disclosed no criticism can justifiably be made against the General Manager or the Board, and none was made at the hearing. A purchase in fact would have been an improvident one, involving the State in heavy loss.

It is now my duty to record that the General Manager and the members of the Board failed to act carefully, diligently, in a businesslike and efficient manner, and with faithfulness to the interests of the State in respect of the matters enumerated :—

Question 3 : In relation to the ascertainment of the value of the assets for the purposes of disposal.

Question 5 : In recommending to the Minister the acceptance of the tenders for which acceptance was recommended.

Question 8 : In accepting the offer of £500 for motor parts and scrap.

Question 9 : In releasing Archibalds from their contract.

And that the General Manager similarly failed in respect of the matters enumerated in—

Question 4 (c) and (d) : in relation to the method of disposal of the assets in so far as relates to the description of Lot 4 in the conditions of tender and in the advertisement.

I have also to record that Warner, in respect of the valuation made in connection with the further tenders referred to in question 12, failed to act carefully, diligently, in a businesslike and efficient manner, and with faithfulness to the interests of the State.

There are also some matters of procedure and routine to be dealt with. Regulation 20 provides that the Secretary shall, if so directed by the Board, keep the following records :—

(a) Minute-book.

No such direction was made by the Board.

The General Manager accepted responsibility for the minutes. He said he prepared the minutes and handed them to Mr. Conibear, the Secretary, just to see if they were in proper shape as to numbering of the minutes, and so on, but on many occasions they went straight from him to the typist, and the first Mr. Conibear saw of them was the completed minutes. Mr. Conibear agreed with this statement, but added that for many months the minutes have as a rule gone direct to the General Manager's personal typist for typing, except on occasions where there was business which he had been personally responsible for presenting to the Board and the writing of the minutes pertaining to that business had been his responsibility.

If the Secretary had been responsible for the minutes, then his would be the liability for the irregularities dealt with in an earlier part of this report. This not being his responsibility, there is nothing in these proceedings to in any way impugn him, and the evidence shows him to be a capable, efficient, and trustworthy officer.

Further questions were asked as to the opening of the first group of tenders and in the action of the General Manager in taking home the original tenders and cheques that accompanied them, and in connection with the week-end mail.

Prior to the 4th March, 1946, tenders were opened by the Accountant's deputy and the Secretary's deputy, but on the 4th March the Secretary suggested to the General Manager that the tenders should be opened by officers of executive level, particularly in view of the value of the assets being sold, and the General Manager agreed, and the tenders were opened on the 4th March in the General Manager's room in the presence of the General Manager, Mr. Levick (the officer in charge of the Motor-vehicles Section), and the Secretary.

This procedure is to be commended as a wise and proper one.

The General Manager took home on the night of the 4th March the original tenders and the cheques that accompanied them. His reason for taking home the tenders was to prepare a summary for consideration by the Board. This was an irregularity due to excess of zeal on the part of the General Manager, and, as regards the cheques, in breach of Treasury Regulations and instructions relating to cheques. Nothing untoward, however, happened on this account.

With regard to the week-end mail, the General Manager explained that after the office closed on Saturday mornings he for a time required a skeleton staff to attend on Saturday mornings to clear the mail and hand it to him, but after a time he considered this unnecessary and cleared the mail himself, twice on Saturdays and once on Sundays. Any mail marked "Tender" remained unopened and was put into the tender box the same time as the mail was handed in to the records staff. He saved two hours valuable time each Monday by so doing, which he was able to devote to other business of the Board. However commendable this zeal might be, it was contrary to the rigidity of Treasury Instructions. There is nothing to show that any harm resulted from this practice, but, on the contrary, valuable time was saved for the Board's service. This concludes my traverse of the matters for inquiry, and it is my duty also to add that nothing transpired during the inquiry reflecting on the integrity of the General Manager or any member of the Board. The General Manager throughout a prolonged examination gave his evidence freely and without equivocation and showed an over-readiness to shoulder responsibility for matters which were not his sole responsibility.

And whereas I was further directed by the said Warrant to make such recommendations as I deemed fit to make in respect of the premises. I have the honour to report that I consider that in its present constitution the Board is too cumbersome a body for the effective discharge of its functions in a businesslike manner. The larger the number of members the more is the sense of personal responsibility dissipated. The evidence showed a too-ready acquiescence in the recommendations of the General Manager—the Deputy Chairman could not recall an instance where the Board had disagreed with the General Manager's recommendations—and a failure to give time to due consideration of important matters. The official members have not necessarily the qualifications to deal with business matters. The Board should be organized on a businesslike basis, as it would be in the commercial world. If the members are too numerous, there can be no adequate discussion of business in a reasonable time.

I consider a Board consisting of the General Manager and two or three members of business experience, with power to co-opt various official representatives as occasion required, would be a more competent and efficient Board and would be a support to and also a check on the General Manager and be in a position to explore and more adequately deal with his recommendations and be identified with and have a personal sense of responsibility in the Board's decisions.

The Board to be still subject to the Minister of Finance, as provided by the present regulations.

Also, that a direction should be given by the Board as provided by Regulation 20 for the keeping of the minute-book records by the Secretary. It is an unnecessary burden on the General Manager to deal with such routine matters.

I have the honour to be,

Your Excellency's most obedient servant,

[L.S.]

J. R. BARTHOLOMEW,

Commission.

Dated at Wellington, this 23rd day of September, 1946.

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