

INTERNATIONAL COURT OF JUSTICE

**APPLICATION FOR REVISION OF THE JUDGMENT OF 23 MAY 2008  
IN THE CASE CONCERNING SOVEREIGNTY OVER  
PEDRA BRANCA/PULAU BATU PUTEH, MIDDLE ROCKS AND  
SOUTH LEDGE (MALAYSIA/SINGAPORE) (MALAYSIA v. SINGAPORE)**

**ADDITIONAL WRITTEN OBSERVATIONS  
AND DOCUMENTATION OF  
MALAYSIA**

**ANNEXURES  
(Volume 2: Annexures D – E)**

**11 December 2017**

## **Annexure D**

Map of "Johore 1937" and War Damage Commission Report for 1952.

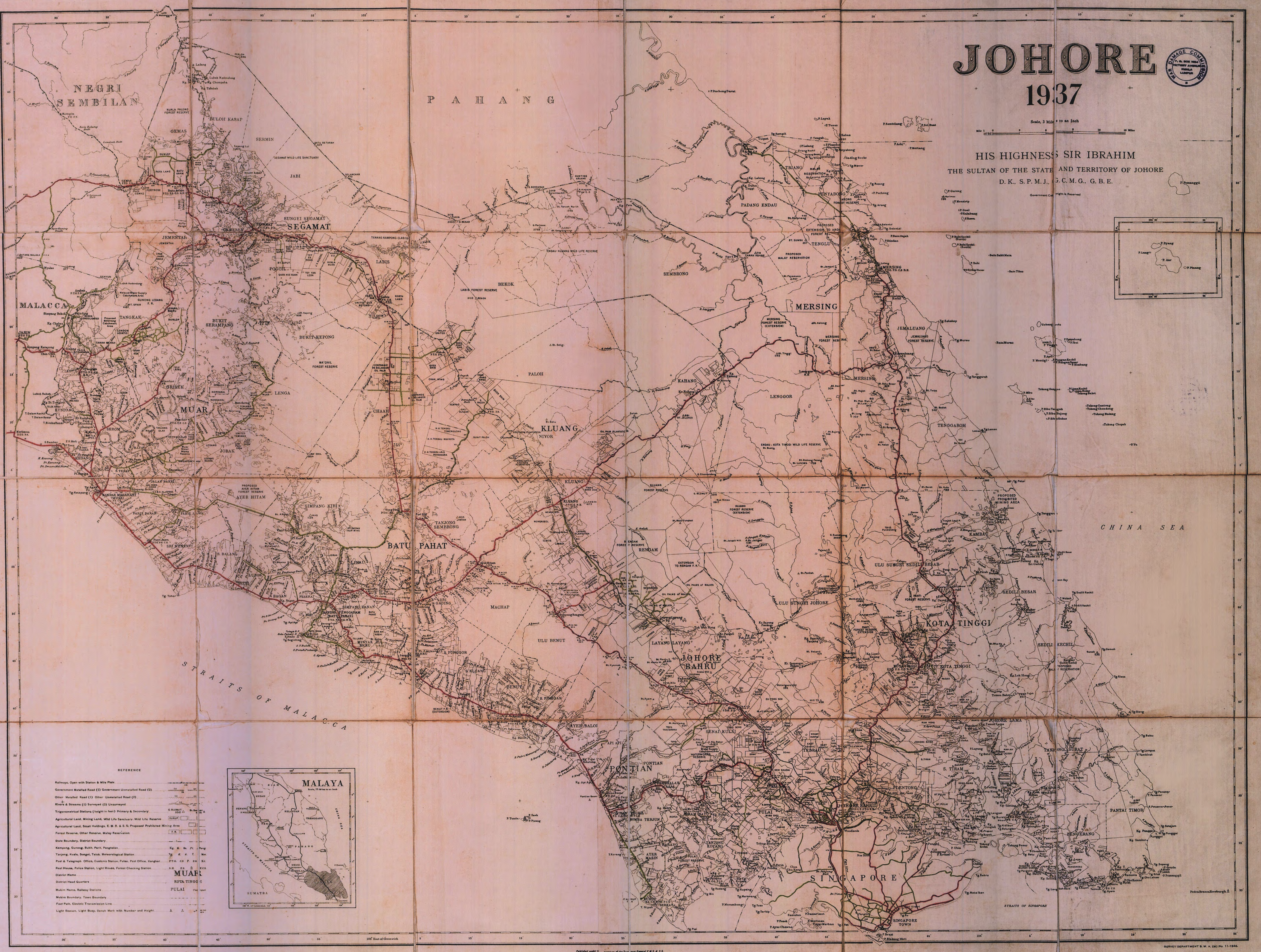
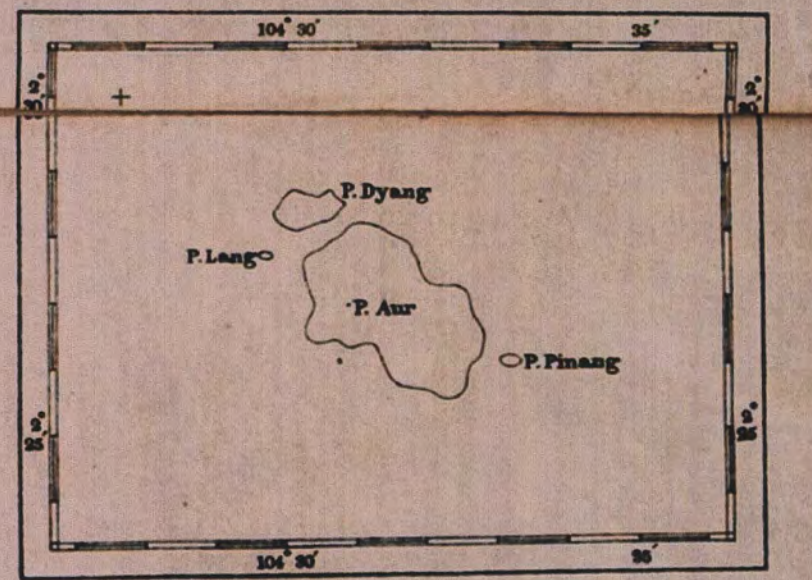
# JOHORE

## 1937



Scale, 3 Miles to an Inch  
1:100,000

HIS HIGHNESS SIR IBRAHIM  
THE SULTAN OF THE STATE AND TERRITORY OF JOHORE  
D.K. S.P.M.J., G.C.M.G. G.B.E.



### REFERENCE

- Railways, Open with Station & Mile Plate
- Government Metalled Road (1) Government Unmetalled Road (2)
- Other Metalled Road (1) Other Unmetalled Road (2)
- Rivers & Streams (1) Surveyed (2) Unsurveyed
- Triangulation Stations (height in feet) Primary & Secondary
- Agricultural Land, Mining Land, Wild Life Sanctuary, Wild Life Reserve
- Agricultural Land, Small Holdings, E. M. R. & S. S. Proposed Prohibited Mining Area
- Forest Reserve, Other Reserve, Malay Reservation
- State Boundary, District Boundary
- Kampung, Gunung, Baki, Peri, Pengasin
- Tanjung, Kuala, Sungai, Teluk, Meteorological Station
- Post & Telegraph Office, Customs Station, Pulau, Post Office, Kangsar
- Real House, Police Station, Light House, Forest Checking Station
- District Name
- District Head Quarters
- Mukim Name, Railway Station
- Mukim Boundary, Town Boundary
- Foot Path, Electric Transmission Line
- Light Beacon, Light Buoy, Bench Mark with Number and Height



# JOHORE

## 1937



Scale, 3 Miles to an Inch



HIS HIGHNESS SIR IBRAHIM  
THE SULTAN OF THE STATE AND TERRITORY OF JOHORE

D. K., S. P. M. J., (J. C. M. G., G. B. E.)



P. Garing

M. M. M. M.

P. Mensing

P. Goul

P. K. M. M.

P. P. M.

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Pedra Branca Horsburgh A

20'

20'

25'

SURVEY DEPARTMENT B. M. A. (M) No. 11-1946.





No. 1000





NO YORK

00/11440

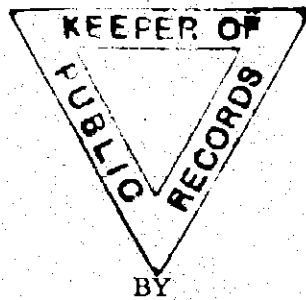


# WAR DAMAGE COMMISSION

FEDERATION OF MALAYA AND SINGAPORE

## REPORT

*in which is included the Annual Report for 1952*



**RICHARD GRAHAM**  
*Chairman, War Damage Commission  
Federation of Malaya and Singapore*

KUALA LUMPUR:  
PRINTED AT THE GOVERNMENT PRESS BY B. T. FUDGE,  
ACTING GOVERNMENT PRINTER.

1953.



## CONTENTS

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CHAPTER.	PAGE.
I.—THE PRE-WAR EMERGENCY AND THE OCCUPATION ...	1
II.—WAR RISKS (GOODS) INSURANCE SCHEME ... ..	5
III.—HER MAJESTY'S GOVERNMENT'S SUGGESTION FOR A COMPENSATION SCHEME ... ..	7
IV.—COLLECTION OF CLAIMS ... ..	10
V.—MEMORANDUM OF PROPOSALS ... ..	12
VI.—THE PROVISION OF FUNDS ... ..	18
VII.—THE PROFITS SET-OFF PROPOSAL ... ..	20
VIII.—SEIZURE CLAIMS ... ..	23
IX.—LEGAL LIABILITY CLAIMS AND DENIAL CLAIMS ... ..	27
X.—THE WAR DAMAGE ORDINANCES ... ..	32
XI.—GENERAL ORGANISATION OF THE COMMISSION ... ..	39
XII.—PAYMENTS BY THE JAPANESE AND OTHER PROBLEMS ...	45
Enemy Aliens	
Squatter Claims	
Restoration during Occupation	
Goods consigned to Malaya in 1941	
XIII.—CLUB CLAIMS ... ..	50
XIV.—KELONGS AND BOATS ... ..	52
XV.—VEHICLES, FIREARMS AND SEWING MACHINES ... ..	54
XVI.—EXTENDED FAR EASTERN PRIVATE CHATTEL SCHEME ...	57
Initial Payments	
XVII.—LEGAL PROBLEMS ... ..	59
Claims from Husband and Wife	
Claims from Convicted Persons and Detainees	
Loans, Advances and Other Payments	
Deceased Claimants and Mortgages	
• Damage caused by Thais	
Claimants outside Malaya	
XVIII.—CLAIMS FROM RELIGIOUS AND SEMI-RELIGIOUS BODIES, ETC. ... ..	64
Pawnbrokers	
Limited Companies	
Private Lighting Sets	
Government Departments	
The Application of Average	



## ii.

CHAPTER.	PAGE.
XIX.—THE EAST COAST .....	67
XX.—ASSESSMENT BOARDS .....	71
XXI.—APPEAL BOARDS .....	74
Interests of Officers serving on Assessment Boards and Appeal Boards	
XXII.—PRIVATE CHATTELS .....	78
XXIII.—TIN MINING CLAIMS .....	83
XXIV.—OTHER CLAIMS CATEGORY .....	89
Oilpalms, Coconuts and Tea Orchards Pineapples Livestock Public Utilities Buildings General Engineering Claims	
XXV.—RUBBER .....	106
XXVI.—PAYMENT OF CLAIMS .....	114
XXVII.—PROGRESS IN 1952 .....	115
General 1952 Accounts	

ILLUSTRATIONS AT THE END OF VOLUME.



## FOREWORD

In the ordinary course this would be a report setting out the progress of the Malayan War Damage Commission during the year 1952. The circumstances are such that this normal course has been rejected, and a report is presented giving a brief history of the evolution of the idea of a War Damage Scheme for Malaya. Such a history must necessarily set out the arguments that led to the Scheme assuming its present form; the development of the legislation eventually passed; the setting up of the present Commission; the peculiar problems presented to the Commission and their solution; the difficulties of assessment; the work of Assessment Boards; the work of Appeal Boards; the organization of payment, and finally the progress made.

2. It may reasonably be asked whether such a comprehensive report is not more proper to the final year in the life of the Commission, whether the knowledge available then would not be so much fuller and more exact than now as to justify the wait of a further three years. The answer is that progress has been so satisfactory that the pattern of procedure is now clearly outlined, the main decisions have been made, the work of the Commission is well past its peak, and the six-year programme originally adopted (and which many regarded as optimistic) is within easy reach of fulfilment.

3. A report such as this should be offered to the public before payments are completed, and while interest in the work of the Commission is still keen. It should be offered to the Councils now so that they may know what has been achieved, and what is still to do. It should be made available to Her Majesty's Government so that they may know at the earliest possible date how the funds they so generously gave to Malaya are being spent. I hope that this report will answer adequately the questions that naturally arise in the minds of both contributors to, and recipients from, the War Damage Fund.

4. The War Damage Commission has never accepted that its task was merely to assess claims submitted to it, and pay out funds accordingly. They have believed that their task was to apply \$435 millions to the economy of Malaya in the most effective fashion, with the primary object of bringing that economy back to 1941 productive capacity. To the extent to which the use of the War Damage Fund restores the capital assets of the country, and raises potential production, may be measured the success of the War Damage Scheme. That is the test that will naturally be applied by an interested person (such as the British taxpayer) living outside Malaya. It is a test that proximity to the problem tends to obscure to many people living in Malaya. It is the aim that has always been kept in mind by the twelve Commissioners on whom the task was laid.



## CHAPTER I

### THE PRE-WAR EMERGENCY

Before 1941 when the Japanese began to penetrate southwards, various emergency measures were introduced by the countries now comprising the Federation of Malaya and Singapore. These measures were carried out under the Emergency Regulations and the Defence Regulations, and included such acts as the taking possession of land for military or Government use; the doing of work on land, such as demolitions or the erection of buildings; the requisition or acquisition of vessels, vehicles, aircraft and general goods, and the requisition of services.

At the same time the output of such important items as rubber and tin was stimulated to the greatest possible extent, thus creating towards the latter part of 1941 an exceptionally high level of production which cannot be accepted as normal.

This emergency activity became accelerated as the Japanese passed from Indo-China into Thailand. Transport particularly was requisitioned in large numbers; food was closely controlled and large supplies were built up; importing firms were encouraged to bring in exceptionally heavy cargoes of stores likely to be of service in a country cut off from its usual supplies.

While the cost or damage inflicted by these requisitions was in a small part settled prior to the invasion of Malaya, the greater part of the requisitions came in for payment from 1947 onwards. They were settled from revenue; but a substantial residue of them passed over to War Damage, and some became the subject of discussion between the Malayan Governments and the Service Departments.

War Damage properly so defined did not begin before the 1st December, 1941, and terminated on the 31st March, 1946. These dates do not correspond closely with the events of the invasion and occupation, but they are convenient dates for limiting the application of the War Damage Scheme.

### THE INVASION

The Japanese landed on the Kelantan Coast in the early hours of December 8th, 1941. They penetrated through South Thailand to Perlis and Kedah a few days later. On landing they took possession of what transport was available; but a number of vehicles had been destroyed, or moved southwards.

They raided Penang from the air on December the 10th and 11th. These raids were most destructive, not particularly because of the number of fires started, but because they let loose a flood of looting in the town and disorganized many local services. Every effort was made to clear all rubber from Prai southwards, and this was substantially achieved; but the congestion on the railway lines became so acute, that stocks of rubber cleared from Prai, just before the entry of the Japanese, could not later be identified and probably ended up in railway sidings where it was found by the Japanese.

Much denial work was done at Penang by the military, and some by the Civil Government. Events were, however, moving so swiftly that installations such as the Penang Broadcasting Station were left intact, and small vessels and barges in the harbour were not removed or scuttled. Denial on a really large scale did not develop until some weeks after the invasion.



After the first furious air raids on Penang the Japanese Airforce appeared generally to avoid indiscriminate destruction. Some of the chief fires in Ipoh were started by British demolition squads. The same occurred in Kuala Lumpur. Seremban, Malacca and Segamat were not greatly damaged. Further south in Johore there was a very considerable destruction of house property. Mersing on the East Coast was destroyed by the Australians when they evacuated it. The Japanese bombed in South Johore on a wider scale. Claims for damage or destruction to 4,696 houses have been received from the State of Johore.

Naturally Singapore received particular attention from the Japanese Airforce. The claims, however, from Singapore in respect of damage or destruction to houses were about half that of Johore in numbers, but about three times that of Johore in value.

Much of the destruction in Singapore was inflicted on the Harbour Board installations, the oil installations, and, strange to say, on the Japanese quarter in Middle Road. The general impression of an observer in Singapore on the 15th of February, 1942, although the sky was obscured by a black pall of smoke from burning oil and houses, would be that the city was largely left unscathed. It was necessary to penetrate into the areas which had been bombed, and where fighting had taken place, before the damage of war became obvious.

In fact, a large proportion of War Damage stems from the Denial measures carried out to prevent the Japanese reaping the benefit of their temporary conquest, and from the acts committed by the Japanese during the Occupation. Many of these acts were shortsightedly destructive, as when large areas of rubber were cut out to make way for tapioca; many were concerned with the seizure of goods and property; many followed from either ignorance or neglect, as when miles of valuable underground cable were allowed to become water saturated. The Japanese appeared either to be ignorant of how capital assets should be maintained or were deliberately careless about maintaining them.

The result was a very substantial amount of accumulated maintenance when the original owners got control in 1945. This item appeared in almost all claims dealing with the destruction of capital assets; and it had to be carefully analysed, because maintenance is an annually recurrent charge, war or peace, and is frequently difficult to distinguish from actual damage, and certainly most difficult to separate from the element of accelerated wear and tear consequent on years of neglect. The photograph of Sungei Besi Mine in this Report shows the embankment beaten down by weather and neglect. This involves more than accumulated normal maintenance, and the banks had to be cut into and re-made, an expensive procedure to which the War Damage Fund contributed.

The Japanese carried out certain repairs to houses when such houses were required by their Military Administration. They repaired many bridges. They cleared away much of the debris of war. They got transport going on road and rail, and they endeavoured to re-establish telephone systems at various centres, though in this they were not very successful.

Where they worked mines they extracted what was easiest available, where they tapped rubber they did not trouble to maintain. Thus there was a vast accumulation of work to be done in 1945 when the gigantic task of restarting Malaya's industries was undertaken. A great deal of this had to be paid for by War Damage.



## THE OCCUPATION

Damage during the occupation depended in some measure on the particular Japanese Officer-in-charge of the district. There was a considerable variation in the volume and nature of loss and damage from district to district. In some private property was largely respected; in others there was not much respect for individual rights.

When the Occupation began, the Japanese proceeded to transfer to their own use such goods and property as belonged to absentees and particularly to Europeans. Godowns were sealed by pasting a piece of paper across the door, other warehouses were placed under armed guard, goods in transit on roads, rail and water were confiscated. Most of this activity came under the particular definition of Seizure given later in this Report.

Shops opened cautiously and gradually. Those that had been fortunate enough to retain possession of their goods sold to considerable advantage in a market that was not being replenished, and for money that towards the end of 1942 began to lose its purchasing power. Many such businesses submitted claims; but the attitude of the Commission was that, where trading during the Occupation took place, it was probable that there was little or no loss.

There was a large volume of land and property transfers especially during the first year of Occupation. There were various reasons for these transfers. Some were for liquidation to obtain food and clothing; some were to obscure persons who were unlikely to attract the attention of the Japanese, and there were many forced sales to obtain the means to pay the "Voluntary Contributions" exacted from the different communities by the Japanese.

Rubber on estates, and tin concentrates on Tin mines, were taken over by the Japanese. Very considerable stocks of rubber were confiscated, and as rubber was insurable under the War Risks (Goods) Insurance Scheme, these confiscations fell generally under the heading of Seizure. The Japanese kept excellent records of what they seized, and it was generally found that reliance could be placed on these Japanese records.

Such transport as was available was very largely confiscated, and some of this transport was run on charcoal. In Penang most cars were rounded up and remained in the open for a long time until they were eventually distributed. There was thus a good deal of unnecessary destruction. Some owners buried their vehicles in rubber estates; but this was generally not a very successful means of avoiding confiscation.

Many boats on rivers were sunk to deny them to the enemy. The means employed was to place a few large stones in the boat, row it out to the middle of the river and knock a hole in the bottom. After the Occupation settled down, many boat owners, under stress of circumstances, dived for their boats and repaired them. Also, they submitted claims for complete loss of the boat.

After some time the main objective of the Japanese was to find food. A strict system of rice rationing was introduced almost immediately after the Occupation started, and rice grown in Malaya was purchased by the Japanese authorities under duress; that is to say, almost the whole crop was taken over and payment was made at prices that were no longer relative to real values.





A drive was made to grow foodstuffs. Special attention was given to the growing of tapioca and sweet potato, these being crops yielding a quick return. Many small-holders were compelled by the Japanese, or voluntarily undertook, to cut out their rubber and to plant tapioca. It was a different question when the Japanese cut out large areas on well kept estates for the planting of tapioca and other foodstuffs. The Kedah Estate, for example, possesses good soil, and this attracted the attention of the Japanese. The greater part of the rubber was cut out and tapioca planted; and as tapioca is a destructive crop, in that it diminishes rapidly the nutriment in the soil, there was a double loss. The Commission have had to meet very large claims from all over the country for rubber cut out by the Japanese to grow foodstuffs.

There was a general neglect of bunds and water-gates. Large areas along the shore that used to carry flourishing coconut plantations are now reduced to a few bare trunks standing like ghosts in a dead world to mark the place where there once was prosperity. The trouble is that the soil has become so impregnated with sea water that the reclamation of these areas is a long and costly business.

Much more could be written about the destruction following on the Occupation, but enough has been said to show generally how widespread and serious this destruction was. There is the direct destruction caused by the invader, and then the far more extensive destruction caused by short-term policies. There is then the consequent destruction caused by ignorant neglect of the valuable assets that fell into Japanese hands.

The Liberation in 1945 contributed also to the tale of destruction. There was, of course, the destruction caused by the bombing squadrons operating from Ceylon towards the end of the Occupation; but there was also a certain amount of destruction caused by clashes between guerilla bands and villages. These guerilla bands needed food which they did not hesitate to take forcibly. Fights ensued with burning of houses and carrying away of livestock. All this added something to the long account awaiting the attention of the War Damage Commission.



## CHAPTER II

## WAR RISKS (GOODS) INSURANCE SCHEME

Compulsory insurance of commodities against war risks was brought into force in the United Kingdom when the war with Germany broke out. In August, 1940, a similar form of insurance was introduced in British India. Following on strong representations from the business community, reinforced by the views of the Chambers of Commerce in Malaya, of the United Planting Association of Malaya, and of the Singapore Rubber Association, similar action was taken in April, 1941, by the Malayan Governments.

The Scheme introduced was called the War Risks (Goods) Insurance Scheme, and it was controlled by a Board of Management. The Scheme was operated under the War Risks (Goods) Insurance Enactment, 1941, and provided for:

- (a) the insurance by policy of all commodities held for sale other than tin-ore and tin; and
- (b) the insurance of tin-ore and tin by way of fee-collection.

The Scheme applied only to commodities held by persons or firms as sellers of goods, i.e., it did not apply to fixed property (buildings) or plant, or to any commodities or goods that were held by persons or firms not for sale. In addition, it did not apply to certain goods held for sale which were considered to be of a nature that did not demand the advantages of communal protection against loss or damage from war risks.

Renewal of the policy was to be quarterly. This turned out to be most important because many persons and firms neglected to renew their policies on the 1st January, 1942, and so were not covered by insurance at the date of loss. As will be related later, the Board of Management was strict in its application of date for renewal; but the War Damage Commission, because of the somewhat different approach it had to make to the problem, allowed a fifteen days period of grace within which renewal of the policy had to be effected.

The War Risks (Goods) Insurance Scheme though quite separate from, and independent of, the War Damage Scheme, became closely linked to the latter by reason of provision made in the War Damage Ordinance. This provision became so important and involved such a large sum of money, that I give below the wording of the War Damage Ordinance:

“‘damage’ means damage to corporeal property and includes injury to and permanent loss of such property but does not include damage or loss in respect of money, securities for money, the diminution of profits and earnings, personal injuries, and damage or loss to goods, insurable under the War Risks (Goods) Insurance Enactment, 1941, or under any Ordinance or Enactment repealed by the War Risks (Goods) Insurance Ordinance, 1948:

Provided that where—

- (a) goods were so insured but the Board of Management of the War Risks (Goods) Insurance Fund has repudiated liability in respect of damage or loss thereto such damage or loss shall be treated as damage within the meaning of this definition; or
- (b) the Commission is satisfied that it was impracticable for a person under a legal obligation to insure any goods to insure such goods or to insure any goods for the full amount, the Commission may allow any damage or loss to such goods to be treated as damage within the meaning of this definition.”



It cannot be said that it was the original intention of the framers of the War Risks (Goods) Insurance Scheme that any portion of claims submitted to its Board of Management should devolve on the War Damage Commission for assessment by the latter; but such was actually the case, by reason of an important decision reached by the Board of Management at an early date in its discussions on the subject of Seizure and Looting.

As the War Risks (Goods) Insurance Scheme had no assessing staff, it was arranged that the small technical staff under control of the War Damage Claims Commission should do these War Risks (Goods) Insurance assessments. Having made a report to the Board of Management in respect of each claim, the War Damage Claims Commission was not concerned with the decision of the Board. That it was very much concerned eventually was a later development.

The Board of Management decided that claims for Seizure of goods by the enemy, and for looting, were not covered by its policies. This decision was sharply challenged, and those concerned took legal advice in the United Kingdom. The Board of Management, however, acting on the advice of the Attorney-General, maintained its decision, and insurers were faced with the prospect that a substantial portion of their claims, for which they had in good faith paid premia, were to be rejected.

When the War Damage Commission was set up, such claimants were informed that that portion of each claim which had been rejected by the Board of Management as not falling under the policy would automatically be considered in War Damage. This meant, in effect, that all the claims submitted to the Board of Management War Risks (Goods) Insurance were transferred to War Damage and had to be analysed by War Damage Assessors to determine what portion of each claim fell within the operation of the War Damage legislation. Thus the War Damage Commission became closely linked in interest with the Board of Management War Risks (Goods) Insurance, and had to devise special rules for dealing with claims rejected by the Board of Management.

Nevertheless, as will appear later, this transfer to War Damage of items not judged by the Board of Management as falling under the policy was not done without remedy to claimant. Section 13 of the War Damage Ordinances allowed claimant to opt out of War Damage, and to have his claim considered under the War Risks (Goods) Insurance Enactment. There were in fact no options from War Damage to War Risks (Goods) Insurance.



**CHAPTER III**

**HER MAJESTY'S GOVERNMENT'S SUGGESTION FOR A  
COMPENSATION SCHEME**

In February, 1946, Her Majesty's Government in the United Kingdom issued a statement proposing that Claims Commissions should be set up in each of the British Territories in the Far East which had been occupied by the Japanese, to register and assess claims for property lost or damaged as a result of the war.

The Commissions were to examine claims registered with them with two objects in view:

- (a) To compile information as to all losses which might be included in Reparation Claims against the Japanese.
- (b) To assess claims admissible under the local law or what might otherwise qualify for compensation under schemes initiated by the local Governments of these territories.

At the time this statement was issued the categories of claims to be included for reparation purposes had not been settled, but a warning was given that reparation settlements might not be sufficient to meet the full amount of claims.

The precise classes of claims in respect of which compensation was to be paid, and the basis of their assessment, were to be determined in due course by local legislation. In the meantime, for the purpose of assessment of claims registered with the Governments, the Commissions would be guided by the terms of existing local legislation, or where there was no such legislation, broadly by the principles laid down in analogous United Kingdom Legislation.

Pending the assessment of these claims, the statement went on to say that it was not possible to state the extent to which it might be possible to award compensation, and the setting up of a Claims Commission did not commit the Government of the territory concerned to the payment of compensation, save in the case of claims admissible under existing laws.

In the event of it being found practicable to initiate new compensation schemes, the local Government was to follow three principles in the preparation of such schemes:

- (a) Owners of property (whether damaged or not) over a minimum value to be fixed would have to pay a fair share of the total cost, as had been the practice in the United Kingdom.
- (b) Compensation might be withheld from those claimants who are not prepared to re-invest the award in the country concerned in cases in which such re-investment would be practicable.
- (c) Priority would have to be given to the settlement of all claims to those claimants the restoration of whose property was of chief importance to the economy of the territory.

Her Majesty's Government expressed themselves as anxious, if the resources of the local Governments concerned were insufficient to meet the cost of restoring productive capacity in their territories, to give what assistance they could. Her Majesty's Government had already, in pursuance



of this undertaking, made advances to certain of the local Governments whose resources were insufficient to finance reconstruction schemes, but Her Majesty's Government could not give any specific undertaking as to the extent to which they could assist local Governments in regard to compensation schemes, until it was known what the extent of those schemes was, and how far local resources could meet them.

The statement regretted that no immediate payment could be made in respect of claims not admissible under existing laws.

It expressed the intention that there should be no distinction made in considering claims for compensation on the grounds of nationality of the owner of the property, other than owners who are, or were, enemy aliens.

It regretted that it had not been found possible to consider payment of compensation for loss of income, business, or goodwill, or in respect of deterioration in health due to internment.

### **PUBLIC STATEMENT OF HER MAJESTY'S GOVERNMENT IN APRIL, 1948**

In October, 1942, a Declaration was made on behalf of Her Majesty's Government to the effect that it would be the general aim of Her Majesty's Government after the war that, with a view to the well being of the people, and resumption of productive activities, property or goods destroyed or damaged in the Colonial Empire should be replaced or repaired to such extent over such a period of time as resources might permit. It was added that if the resources of any part of the Colonial Empire were insufficient to enable this purpose to be achieved without aid, Her Majesty's Government would be ready to give what assistance they could, in conjunction with such common fund or organisation, as might be established for post-war reconstruction.

In September, 1947, on completion of the collection of claims for War Damage in Malaya, the Claims Commissioner conferred in London with the Colonial Office and, after his return, the Government in Malaya submitted jointly to Her Majesty's Government, through the Governor-General, the outlines of a Scheme for settlement of War Damage claims and for claims under the War Risks (Goods) Insurance Scheme in the territories now comprising the Federation of Malaya and Singapore. Apart from claims under the Insurance Scheme, where a legal liability was involved, these proposals were based on the conclusion that in the present financial circumstances both Her Majesty's Government's and the Malayan Governments' expenditure must be restricted to the sum necessary to meet essential needs on an austerity basis. The total expenditure contemplated under these proposals on all classes of claims was \$475 millions or approximately £55 millions.

With the personal assistance of the Governor-General, who arrived in England shortly after submission of the proposals, and of the Malayan War Damage Claims Commissioner, who visited London specially for this purpose, Her Majesty's Government considered the proposals and decided that the general scheme outlined was sound and was calculated to achieve its essential object. At the same time they recognized that the Malayan Governments were not in a position to finance such a scheme entirely from their own resources, and Her Majesty's Government accordingly agreed to contribute a sum of £10 millions by way of a free grant towards expenditure involved. As regards the remaining expenditure, Her Majesty's Government agreed to stand behind the Malayan Governments up to a maximum additional



liability of £35 millions on the understanding that the latter would meet the cost of the scheme directly from their own resources to the greatest possible extent. In so far as the Malayan Governments might prove unable to meet the liability in the direct manner indicated above, it would be met by interest free loan from Her Majesty's Government to the Malayan Governments. It was envisaged that the remaining £10 millions out of the total of £55 millions should be met from the proceeds of Japanese Reparations. In the event of any such proceeds falling short of £10 millions and in the event of the Malayan Governments finding themselves unable, in spite of all efforts to meet the balance directly from their own resources, further discussions with Her Majesty's Government would take place.

Having regard to the financial difficulties with which the United Kingdom was itself faced as the result of losses incurred during the war, and having regard to the heavy burden which the United Kingdom taxpayer was called upon to bear, this contribution by Her Majesty's Government towards the solution of Malaya's problems represented a great effort and a very real proof of sympathy and goodwill.

The Governments of the Federation and Singapore were required to draw up a detailed scheme within the framework outlined by the statement. Particulars of this scheme were to be announced early, in order that it might be put into practice as rapidly as possible. Actual expenditure, however, would inevitably be spread over a considerable period and, moreover, it was essential both from the point of view of limiting calls on the productive capacity of the United Kingdom at that critical time, and of avoiding local inflation, that bulk expenditure should not be too suddenly incurred. In the circumstances it had been agreed that Her Majesty's Government should not be called upon to give assistance to the extent of more than £6 millions in 1949 (the year in which payments were expected to commence) and that the same limit should be imposed in 1950 and 1951. The Malayan Governments also agreed to keep a close watch on the level of sterling balances held on Malayan Account in the United Kingdom, and to consider taking such action as might be necessary to maintain these balances by way of continuing or extending the limitations on imports.

Her Majesty's Government also took the opportunity of informing the Malayan Governments that, as further evidence of goodwill, they would not seek any contribution from the latter in respect of cost of military administration amounting in all to over £7 millions. Further discussion would then take place between Her Majesty's Government and the Malayan Governments on the apportionment of expenditure incurred on goods supplied by Her Majesty's Government to the territories after Civil Government had been re-established.

Her Majesty's Government agreed to ask Parliament for the necessary authority to implement the above decision.



## CHAPTER IV

### COLLECTION OF CLAIMS

In 1947 the public in Malaya were invited to submit claims, on a specially prepared form, in respect of such loss or damage as they suffered during the battle of Malaya and subsequent Occupation. Persons who were resident in Malaya during the 1941-42 Emergency, or later Occupation, and were now resident outside Malaya were also invited to submit claims.

These claims were collected at Land Offices and District Offices throughout the country. They were registered, and an acknowledgment was sent to claimant. An analysis of claims submitted was then prepared at each collecting centre, and this analysis was forwarded to the War Damage Claims Commission sitting in Kuala Lumpur. These returns were then grouped and were eventually presented to the two Governments as an appendix to Mr. Carson's Memorandum of Proposals. It was on these returns from Land Offices and District Offices that Mr. Carson had to base his proposals for a War Damage Scheme. The claim files (some 120,000) could not be accommodated at the War Damage Claims Commission's Headquarters at Kuala Lumpur, and so had to remain in the collecting centres until they were eventually brought to Kuala Lumpur in 1948 for scrutiny and division into claim categories.

Many people did not at this stage submit claims. They had no belief in a War Damage Scheme ever emerging. This mentality was partly a carry over from the Occupation period during which the public of Malaya had learned to distrust the temporary Japanese Government, and also to some extent it was the result of anti-British propaganda which continued to sow distrust of the returned Governments. It is very difficult to assess accurately the strength of this distrust; but some distrust of the Commission there certainly was, and it continued up till the beginning of 1950 when the War Damage legislation came into force and the first payments were made.

Against this distrust it is pleasant to record a letter written to the Commission by a Malay lady in Perak which ran:

"Will you please find for me my female elephant complete with chain and answering to the name of Kanji."

In 1950 the doubters, or most of them, were convinced, and a new spate of claims poured in to the Commission. It was found necessary to impose a time limit, and the 18th November was selected as the date beyond which claims would not be received in the Federation; the 4th November was the limit date in Singapore. These dates have been rigidly adhered to; but where it can be shown by claimant that he did submit some sort of a claim to the Board of Trade, or Colonial Office, or to the Malayan Governments prior to this date, his claim has been accepted.

These 1950 claims were segregated by the Commission as "doubtful". It appeared strange that those who really had claims should wait for three years before submitting them.

It will be obvious that this late rush of claims was an upsetting factor to the Commission. The War Damage Fund, and the four claim categories with their relative allocations, had been estimated on the original figures supplied by the collecting centres in 1947. The Commission was now



faced with a new set of figures which fitted awkwardly into the estimates on which the Scheme and the Fund had been based. Serious consideration was given to whether all 1950 claims should not be rejected; but there were more solid arguments for admitting them.

There were two groups of claimant of vital importance to the economy of Malaya which had come forward late in 1950 with their claims. One of these was the pineapple growers. This group was not well organized and had no idea what they could or should do to recover some of their losses of 1942; and, more important still, they did not understand that the Commission was designed to help them to restore their industry, even though the land originally used for pineapples was no longer fruitful or available. The Commission met the representatives of the pineapple growers, and special arrangements were made for their claims to be received.

Much the same difficulty attached to claims from rubber small-holders, and there was a spate of claims, late in 1950, which still further upset the estimates of the Memorandum of Proposals, and which it was considered by the Commission should be allowed because of their vital importance to the rubber planting industry.

From the foregoing will be seen some of the frustrations the Commission had to encounter during the first year of its life. All these changes meant adjustments in the organization, and the rules devised for Assessors. They meant delay, and consequent public misunderstanding.





**CHAPTER V****MEMORANDUM OF PROPOSALS**

In 1948 Mr. Carson, who was then Chairman of the War Damage Claims Commission (a Government Department as distinct from the War Damage Commission which is a Statutory Body) prepared a Memorandum of Proposals for a Malayan War Damage Compensation Scheme. Mr. Carson's proposals were based upon as full a view of the claims submitted as was at that date practicable. He had no staff that could be allocated to this preparation work, and the claim files were in Land Offices and District Offices throughout the country. His proposals, therefore, were based on an analysis of these claim files made by clerks in the collecting offices, who in many cases did not understand or appreciate the importance of the work they were asked to perform.

In the meantime numerous deputations waited upon the High Commissioner of the Federation and the Governor of Singapore to press their views about the War Damage Compensation Scheme. It can be said that all interests were adequately represented. The subject of small claims by the people of rural areas was specially raised at a conference of all the Mentri Mentri Besar and Resident Commissioners in December, 1947, when a full discussion took place; the result of which Mr. Carson has embodied in his Memorandum.

The Malayan Governments may, therefore, claim that they sought the views of everybody concerned and gave the fullest possible consideration to what was expressed to them by the various deputations. Naturally these views had to be weighed against general public interest, so that one section should not be favoured as against another. It may be said with confidence that the proposals laid before the Legislative Councils reflected, so far as it was possible to do so, the views of the public and the general interests of the country.

One fundamental proposal in the Memorandum was that the efforts of organized industry and trade should be financed to the greatest possible extent, but always with due regard to the general economy of the country. This meant that restoration work actually undertaken, or projected, should be given restoration awards. The governing considerations were whether the restoration was rendered necessary by War Damage, and whether it was desirable in the general economic interests of the country as a whole, that this restoration should take place.

Thus restoration was the main purpose behind the Scheme eventually evolved, and, even where outright awards were paid, as particularly in respect of Private Chattels, the aim was to pay compensation within the limits of the Fund for the restoration of necessary articles to the extent required to enable claimants to resume their normal mode of living, though not necessarily on a level with their previous standards.

In the United Kingdom War Damage Scheme although compensation in cash or in kind is made available, there are reserved to the War Damage Commission such large powers of controlling and directing the manner in which expenditure is to be made, that the Scheme is as much one of planned restoration as of direct compensation. It was not possible to go so far in the Malayan War Damage Scheme; but, nevertheless, the powers given to the Commission enabled a very considerable control of restoration of essential industries.



The Memorandum of Proposals while setting out suggestions for a War Damage Fund appreciated that the losses under War Risks (Goods) Insurance were essentially of a War Damage nature and differed only from War Damage proper by their having had pre-existing legislation to deal with them. For this reason it was proposed that the War Damage Fund should make good, to a certain limit, such discrepancies as the War Risks (Goods) Insurance Fund discovered between its liabilities and its assets.

The Memorandum recommended a War Damage Fund on a Pan-Malayan basis, and this has actually been carried into effect although the Federation and Singapore have their own War Damage Ordinance, Schemes and Rules which differ slightly from each other.

The total amount of the Fund proposed was \$475 millions, and this Fund was intended to be made up as follows:

- (1) Free Gift from H.M. Government of \$85.7 millions.
- (2) Drawing on the proceeds of reparations. The Malayan Governments had envisaged receiving up to \$85.7 millions from this source.
- (3) Amount at credit of War Risks (Goods) Insurance Fund, \$12 millions approximately.
- (4) The proceeds of assets in the hands of Malayan Custodians of Enemy Property. This was estimated at \$52 millions.
- (5) Direct contribution from Malayan Revenues.

A possible sixth source was envisaged in that H.M. Government had stated that they were prepared to advance to the Malayan Governments by way of Interest Free Loans such sums as were short in meeting the liabilities of the Scheme.

These proposals for financing the War Damage Fund were considerably altered by the Legislative Councils, and by subsequent discussions with H.M. Government. The original proposals are placed on record to show what the first approach was, and in what form the War Damage Scheme was taking shape.

Many groups and interests pressed the Malayan Governments for what is generally called priority. This priority had a double intent. Those asking for priority wished generally to have special privileges accorded to them when their claims were being assessed, and also that payment be made to them as a first charge on the Fund, or ahead of other claimants. After careful consideration the conclusion was reached that the most equitable way of meeting the problem of such conflicting requests was to earmark certain sums as maxima for particular groups. This meant, in effect, that instead of one large cake from which all claimants would seek to get a cut, there would be several small cakes, each labelled with a particular category of claim and exclusive to that category. The next step was to decide what categories of claim should have their own particular cake, and the list was finally reduced to:

- Rubber.
- Tin.
- Private Chattels.
- Other Claims.

The group, Other Claims, includes such varied items as Public Utilities, Mining other than Tin, Ships and Boats, Tea, Palm Oil, Coconuts, Wholesale and Retail Businesses, Buildings, Engineering Works and Factories, Pineapples, etc. It was decided not to break up this large fourth cake into smaller cakes.



This decision to have separate categories for Rubber, Tin and Private Chattels allowed the Commission, when it began assessment, to plan minutely how the assessments were to be made, what relative importance was to be given to separate items, and what divergence was permissible from ordinary commercial practice when computing values; for example, it was agreed with the Tin Mining interests that depreciation of equipment should not be applied, on the principle that mining equipment to be effective must at all times be maintained at full efficiency. This decision affected only Tin Mining claimants. It was one of the rules adopted for cutting up the Tin Mining cake.

It was proposed that a first charge on this Fund would be the loss under the War Risks (Goods) Insurance Scheme. This loss was computed at \$19.4 millions; that is to say, it was calculated that the total payments out of the War Risks (Goods) Insurance Fund would amount to the \$12.4 millions already in hand plus a further \$19.4 millions. This proposal was agreed to, and payment was eventually made from the War Damage Fund.

In fact payments from the War Risks (Goods) Insurance Fund up till the end of 1952, and exclusive of Administration Costs, amounted to \$33,340,037. The shortage, therefore, after receipt of the \$19.4 million from the War Damage Fund had to be contributed directly by the two Governments.

The Memorandum also proposed that special consideration be given to cases of undue hardship within categories where it is appropriate. This could take the form of priority of payment; and the original proposal suggested that pressure on claimant to pay such items as rent, insurance premiums, interest on loans, medical care, education, funeral expenses, debts, and maintenance costs for himself and dependents were items that might well be regarded as falling within this class.

This question of hardship is a recurrent one, and it is desirable to place on record that the Select Committee (Paper 10 of 1949 Federation) in their report wrote that "While hardship is a matter which, we feel, deserves to be handled with all possible sympathy, we are of the opinion that cases of exceptional hardship are likely to be few. We are unanimously of the opinion that some special consideration should be accorded to small claims. We recommend, therefore, that the first \$350 of every assessed claim should be paid in full, and that the balance should be paid on a percentage basis according to the availability of funds. We consider that this recommendation will suffice to meet the problem of hardship claims, and we do not feel justified in recommending any more favourable treatment".

This recommendation of the Select Committee was later approved by the Legislative Councils, and has proved in the event to have been wise. There have been a large number of hardship appeals to the Commission; and it is considered that any test that could be applied to such cases would be inefficient and probably annoying. The Commission has always believed that the correct answer to hardship appeals is to speed up the assessment of claims within the category to which hardship generally applies. This has been done. It is not claimed that all hardship cases have been eased; but it is claimed that the Commission has not been indifferent to appeals.

It was proposed that two types of award be allowed; namely, Restoration Awards and Outright Awards. Restoration awards would be conditional upon rehabilitation work being done to the satisfaction of the Commission in accordance with the War Damage Legislation; Outright Awards would not be conditional upon restoration or replacement. This distinction was approved by the Councils.



Restoration Awards in general apply where a business was in activity at the time the War Damage was sustained, and either had been started, or was about to be restarted as a result of the Award. The term "business" in this context had a wide meaning. In addition to industrial and commercial activity, it includes activities of persons or bodies not carried on for profit. The restriction imposed by the legislation is that such business or industry be essential to the economic well-being of the country.

It will be appreciated that the interpretation of this restriction has to deal with some difficult questions. For example, is a religion or a literary or a musical society essential to the economic well-being of the country? The Commission, when it came later to apply the fundamental rules, decided that religious and semi-religious bodies, cultural societies and political societies (where they had not been declared illegal) were within the meaning of businesses essential to the economic well-being of the country.

Since Outright Awards were to be based on the value of the property lost or damaged in 1941, and Restoration Awards on the cost of restoration post-war, it is evident that a substantial advantage lies in getting a Restoration Award. This advantage was greatly enhanced by the substantial decline in the purchasing power of the dollar compared with pre-war. For this reason it was necessary to make provision for an efficient control of restoration to be carried out consequent on the grant of a Restoration Award.

When carrying out a work of restoration under the War Damage Scheme, the fundamental distinction was between the destruction by obsolescence, wear and tear on the one hand and destruction by War Damage on the other hand. For example, if a factory erected in 1921 and with a normal expected life of 50 years were destroyed by shell fire in 1941, and if the cost of restoration in 1949 were \$100,000, the problem would be:

$$\frac{\$30}{50} \times 100,000 = \text{restoration cost due to War Damage.}$$

The Commission would not pay for that portion of the restoration which could reasonably be considered as making good factors other than pure War Damage.

Also a time limit had to be placed on restoration, otherwise the Commission would be unable to exercise control of it. The Commission has a life not estimated to exceed six years from the date of the passing of the War Damage Scheme, and can exercise control only within that period.

The continued decline in the purchasing power of the dollar compelled the Commission to impose a restriction also on the costs of restoration. If this had not been done, those who restored early would receive relatively smaller awards than those restoring later. The Commission ruled that any restoration carried out subsequent to the 1st January, 1950, would be calculated at the cost of such restoration if carried out on that date.

Another and most important problem was the extent of restoration required. A claimant may decide, in his own particular interest, to restore less or more than the property lost. It was decided to make this test the productive capacity of the business in 1941. Where machinery and equipment were restored giving a smaller productive capacity, claimant was regarded as having partly restored, and was given a Restoration Award to the extent to which he had restored and an Outright Award to the extent to which he had suffered loss and had not restored. Where, on the other hand, a claimant had restored to a greater productive capacity, the increase was classed by the Commission as betterment, and claimant was regarded as financing this betterment in his own interests. He was allowed a Restoration Award up to the extent to which he had restored to 1941 productive capacity.



There were many instances where a sale of the property took place after the War Damage had been sustained, but before restoration could be carried out. This question of transfer of war damaged property will be discussed in detail later, but it may be said here that where a claimant sold his property before carrying out restoration, he had no claim to a Restoration Award.

It will be seen from the above remarks on Restoration, that the general aim of the Proposals and consequent War Damage Scheme was to encourage restoration. Indeed, it may be stated that the prime aim of the Commission was to restore, and the whole system of assessments and awards later devised was directed towards that end. Restoration Awards may be regarded as the normal, Outright Awards as the alternative where controlled restoration was impossible.

There is no direct control over Outright Awards in the sense that having made the Award the Commission asks the claimant what he is going to do with it. But there is an indirect control in that these awards are made only for necessaries and on an austerity basis. Outright Awards apply particularly to Private Chattels, and, having restricted the award in Private Chattels to necessaries on an austerity basis, the Commission can reasonably assume that restoration in one form or another of the Private Chattels lost will be carried out. It is true that War Damage payments are frequently used to purchase luxuries; but that is not the whole story. Before a person purchases a luxury, he normally has to supply himself with necessaries; and, if War Damage payments received sometimes go into luxuries, this is because restoration of the necessaries has already been made by claimant from his own resources. It adds up to the same total either way.

When the proposal to introduce a War Damage Scheme was under discussion, much was said and written about the dangers of inflation when payments began in full volume. The problem reduced itself to ways and means of deflecting the payments made by the Commission into capital goods, or into savings which might be accepted as deferred expenditure on consumption goods. The system of Restoration Awards was a useful solution to this problem, though it was not an adequate solution. The system of Outright Awards for necessaries on an austerity basis was a substantial addition to Restoration Awards. Even so, there remained a margin. To what extent was this margin of payments contributory to inflation?

Some idea may be gathered from the Savings Bank figures for the period since 1950 when War Damage payments began. In the payment letter sent to all claimants with their cheques they are recommended to use the Savings Banks to cash the War Damage cheques. This recommendation is designed to deflect as much of these payments, particularly those for Private Chattels, as possible into the Savings Banks.

Excess of deposits over withdrawals:

1950	...	\$ 9,299,549.00
1951	...	\$27,403,005.00
1952	...	\$15,992,956.00

It will thus be seen that over this period which covered the start of the War Damage payments, and a period of boom conditions there was a steady increase in savings by the small man.

It will be appreciated also that a large number of payments for Private Chattels are made to claimants now residing in the United Kingdom, Eire, Canada, South Africa, India, Australia and New Zealand.



## BOOTY RUBBER AND TIN

The assets in the hands of the Custodians in 1949, included some \$30 millions in respect of what was incorrectly called "Booty Rubber and Tin". When the Allied Forces returned to Malaya in 1945, large stocks of rubber were found, mainly on Estates, but partly also in godowns in Singapore and elsewhere. With very few exceptions this rubber was not specifically identifiable, but it could be accepted beyond doubt that it was almost all grown on Estates in Malaya during the Japanese occupation (not necessarily on the particular Estates on which it was found, since it was common practice during the occupation to collect rubber from a number of Estates for preparation in a single control factory). This rubber was bought by the Rubber Buying Unit (a group of rubber planters temporarily employed by H.M. Government) on behalf of the Ministry of Supply; and the proceeds of the sale totalling approximately \$27 millions were handed over to the Custodians.

The rubber industry contended that this rubber was its own property, and that it was entitled to dispose of the proceeds of the sale thereof entirely at its own discretion, without adversely affecting the claims of rubber planters to share in compensation for war damage. Similarly, if the claim of the rubber industry was admitted, the tin industry had a right to similar treatment.

The Select Committee on War Damage were of the opinion that as the sum in the hands of the Custodians represented the proceeds of sale of a wide variety of miscellaneous property which would not be capable of disposal in any other way than by incorporation in a common War Damage Compensation Fund, this course should be taken. They considered that the fact that the rubber and tin industries were well organized and able to deal with the assets to which they laid particular claim, to the satisfaction of those engaged in the industries, should not be the governing factor. It was agreed in Council that the whole of the non-enemy assets held by the Custodians which were not susceptible to exact identification be appropriated to the War Damage Compensation Fund. This decision proved in the sequel to be most important to the War Damage Scheme, because while such settlements of booty rubber and tin as were made because the rubber and tin could be identified and successfully claimed were relatively small, the amount realized by the net War Damage Fund from non-enemy assets was \$73.3 millions. The effect of this increase to the Fund's expectations is to reduce the amount that will have to be taken up as Free of Interest Loan.



## CHAPTER VI

## THE PROVISION OF FUNDS

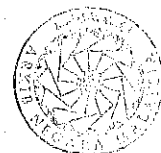
A War Damage Scheme of the magnitude of \$475 millions, including War Risks (Goods) Insurance payments, was proposed by the Memorandum. This total was computed on an analysis of the claims submitted; but, unfortunately, two factors operated to make the information available inadequate:

- (a) The Memorandum of Proposals was issued in 1948. The War Damage Ordinances came into force at the beginning of 1950; and it was found necessary then not to close the door on new claims until November, 1950. Thus there was a substantial addition to the claims on which the \$475 millions were computed.
- (b) After the introduction of the general War Damage Scheme, passed by the Executive Councils in the middle of March, 1950, various questions arose in the Rubber and Tin categories which were discussed and agreed with the respective interests. The agreement reached with the Rubber interests involved a payment for clearance of blukar which had not hitherto been considered, and which was particularly important because it involved, to a substantial extent, the Rubber Smallholder. The result of this agreement was a flood of claims from Smallholders and various adjustments from larger Estates. Similarly in Tin. The agreement reached with the Tin interests on the method of assessment of their claims resulted in many adjustments to the original claims, and a substantial increase to the total value of claims submitted.

It will thus be seen that the Commission had to begin the work of assessment with the knowledge that unforeseen factors had upset the original balance of figures. At the date of issue of the Memorandum of Proposals the total of claims for War Damage Compensation was \$1,303 millions. This figure is now \$1,415 millions.

A fact that is not generally appreciated is that loans were raised in the Federation and in Singapore prior to the introduction of the War Damage Scheme for financing the recovery in these territories from the ill-effects of war and of enemy occupation. In the Federation some \$66½ million out of the 1946 Malayan Union Loan and \$53 millions out of the new Federation of Malaya loan were estimated to be required on account of direct restoration of war losses and damage to public property. In Singapore a loan amounting to \$50 millions was raised for the purpose of financing various works of rehabilitation rendered necessary by the War and of the Japanese occupation, and some \$20 millions were also spent for this purpose from current revenue according to the Select Committee's report on War Damage (Paper 10 of 1949 Federation). These figures do not take into account the considerable expenditure by the Municipalities and Harbour Boards, which has been financed from their current revenues and from monies provided on loan by the two Governments. This meant that a substantial amount of the payments on Restoration Award that were to be made from the War Damage Fund was already earmarked for the clearance of loans raised to effect restoration of War Damage.

As a result of the exchange of views between the High Commissioner of the Federation, the Governor of Singapore and the Secretary of State for the Colonies, the following scheme was proposed by the Secretary of State



to make up the \$475 millions estimated as required by the Memorandum of Proposals.

(a) Free Gift from the United Kingdom of	...	\$171.4	millions
(b) Non-enemy assets in hands of Custodian \$81 M. less belonging to War Risks Fund \$11.6 M.	69.4	..	
(c) Expected from Japanese reparations	60.0	..	
(d) Balance being Free of Interest Loan offered by H.M. Government	153.6	..	
	<u>454.4</u>	..	

These proposals were an amendment of original proposals whereby the Free Gift from the United Kingdom was only \$85.7 millions and whereby a much greater part of the burden of War Damage would be borne by the two Malayan Governments. This most generous offer by Her Majesty's Government of a Free Gift of \$171.4 millions (£20 millions) and a Free of Interest loan up to \$160 millions, altered completely the problem of financing the War Damage Compensation proposed and was, after discussion in the Legislative Councils, gratefully accepted.

Actually the figures did not work out exactly as proposed above, because the returns from Custodians for non-enemy assets had been underestimated, and in the event no reparations were provided for Malaya in the Peace Treaty with Japan. Instead of reparations, the War Damage Fund received the proceeds of Japanese property in Malaya up to the amount of \$60 millions. This property consisted chiefly of Japanese owned rubber Estates. Thus an analysis of the War Damage Fund at present date shows that it is made up of the following items:

Free Gift from Her Majesty's Government	...	\$171.4	millions
Japanese property in Malaya	60.0	..	
Non-enemy assets in Custodians' hands (exclusive of W.R.I. Fund)	73.3	..	
Free of Interest Loan	149.7	..	
	<u>454.4</u>	..	

Out of this sum the War Damage Fund was asked to pay over to the War Risks (Goods) Insurance Fund the sum of \$19.4 millions, thus leaving a balance for War Damage Compensation of \$435 millions.

In recommending the acceptance of these later proposals from Her Majesty's Government for financing the War Damage Compensation Scheme, the Select Committee recommended that the Scheme be based directly on the principle of restoration of essential industries, and that the ceilings of the various sub-divisions proposed in the original Memorandum of Proposals should be retained, thus ensuring the evolution of a scheme of the same order of magnitude as was envisaged in the Memorandum. These ceilings were:

Rubber Planting	...	\$ 85	millions
Tin Mining	...	85	..
Private Chattels	...	50	..
Other Claims	...	215	..
		<u>435</u>	..

The Select Committee also proposed an important exception to the assessment of claims on an austerity restoration basis. This was in respect of buildings, other than business premises occupied by the owner for the purpose of his business. The proposal was to assess these buildings on the basis of values in June, 1941.





## CHAPTER VII

### PROFITS SET-OFF

The report of the Select Committee added a proposal that was of far reaching and fundamental importance, and which raised a great deal of controversy in the Committee and in the Councils. The report (No. 42 of 1949 Federation) reads, paragraph 8.

“Though we agree unanimously that a sum not exceeding \$215 million should be allotted to cover the category of ‘other claims’ referred to in paragraph 68 of the Memorandum of Proposals [in which category we include claims rejected under the War Risks (Goods) Insurance Scheme on grounds other than non-insurance] we do not regard it as equitable or justifiable to ask the taxpayer to accept liability for any compensation to businesses or individuals who have not only succeeded in recouping their war losses, but have in addition in some cases made very considerable profits since the liberation of Malaya.

We therefore recommend that a ‘profit set-off’ test based on gross profits for the three years 1946-7-8 should be applied to all claims falling within the following categories:

- (a) Business and Professional Equipment;
- (b) Business Premises occupied by the owner for the purposes of his business or profession;
- (c) Industries, businesses and Commercial Undertakings;
- (d) Stock-in-trade;
- (e) Claims rejected under the War Risks (Goods) Insurance Scheme on any grounds other than that of non-insurance or under-insurance.

To this end, we recommend that power should be vested in the Commission to prescribe (with the approval of the High Commissioner-in-Council and the Governor-in-Council) maximum levels of gross profits for various types of industries, businesses and commercial undertakings, and that any such profits made by a claimant during the years 1946-8 in excess of the prescribed limit should be set-off against the dividend which would be payable to that claimant on his assessed claim, only the remaining balance (if any) of such dividend being paid as compensation.

The ‘profit set-off’ test should not, in our opinion, be applied to any of the following categories of claims:

- (a) Tin Mining;
- (b) Rubber Planting;
- (c) Public Utilities, Harbour Boards, Municipalities, etc;
- (d) Mining other than Tin;
- (e) Planting other than Rubber;
- (f) Other crops, Livestock, Artizans’ tools, etc.;
- (g) Private Chattels.

In all these categories we consider that instances of undue profits during the years 1946, 1947 and 1948 have been so rare as to render the imposition of a test an unnecessary administrative complication.



In the case of claims in respect of private dwelling houses (in which category we would include business premises other than those occupied by the owner for the purposes of his own business) we recommend that any increment in value which has accrued since the time that war damage occurred (whether as a result of enhanced post-war rentals, improved land values or other reasons) should be set-off against the dividend which would be payable to that claimant on his assessed claim, only the remaining balance (if any) of such dividend being paid as compensation."

There was a rider to the report, signed by six members which stated:

"While we entirely agree with the principle of set-offs recommended, we nevertheless consider that the method of application suggested is incorrect. We consider that the amount of excess profits should be set-off against the total of assessed claims and not against the dividend. One member of the Select Committee proposed that the set-off should be against the war damage losses and that the method proposed by the majority of the Select Committee was unjust and inequitable, and that it penalized energy and initiative. It placed a premium on sloth and indifference."

From these remarks it will be seen that a most difficult controversy had been opened when the proposal to set-off profits against War Damage Compensation dividends had been made.

The general line of opposition to the Profits set-off proposal was that:

- (a) it was aimed at one section of the community and in fact would embrace only that part of the section which had War Damage claims. Many firms were able to realize their stocks, or even to continue trading during the Japanese occupation, and subsequently, because of shortage of goods, to make large profits;
- (b) the proposal would mulct the business which by its own efforts and initiative made its restoration possible, but would reward those who had not the same industry or initiative;
- (c) only those firms which keep proper accounts for income tax purposes could be equitably assessed;
- (d) the judgment as regards the value of profits would be made by a Commission or Board on which would sit members of the Commercial Community. Claimants object to submit their accounts to a body upon which competitors are likely to be serving;
- (e) it would lead to further delay and expenditure in implementation.

In October, 1949, it was reported to the Colonial Office that the Federation had accepted and Singapore had rejected the proposal for set-off of excess profits recommended by the Select Committee. The Secretary of State was of the opinion that, as the proposal to apply off-set would be limited to the Federation, this would clearly introduce a fresh complication. Before giving a final approval to the scheme so framed Her Majesty's Government would require to be satisfied with the reason submitted by the two Governments that profits set-off as now envisaged could be equitably applied in one territory but not in the other without complicating and delaying the implementing of the War Damage Scheme as a whole.

A sub-committee was set up to consider the practicability of applying profit set-off in the Federation and also to report on the proposal to box \$60 millions specifically for Seizure Claims.



This Sub-Committee worked out lists of claimants in the Federation who would be affected by the profits set-off proposal, and considered the various complications that would arise in applying the principle to them. After discussion it was agreed that the excess profit set-off proposal would be impracticable on account of difficulty in obtaining trained staff to implement it, and also the difficulty of separating profits earned in the Federation from profits earned in Singapore in the case of Pan-Malayan firms. There was also the formidable difficulty that most firms in Malaya had lost their books of account applicable to the years immediately prior to the war. In applying profit set-off it would be necessary to compare post-war profits with pre-war profits in respect of each individual business, and, where no records existed respecting the pre-war profits, the comparison could not be made with any approach to equity.

The Sub-Committee also agreed that a separate category should not be created for Seizure claims, and that if the proposal to earmark a sum of \$60 millions in respect of these claims were applied, it might well lead to Seizure Claims being unduly favoured at the expense of other claims in the main category to which they belong. It was, therefore, decided that the most equitable and practicable course was to leave Seizure Claims free within the category of \$215 millions "Business and Other Claims" as Singapore had done.

These decisions removed the last differences between the Singapore and Federation Select Committees. Action could now be taken to prepare a draft War Damage Bill.



## CHAPTER VIII

## SEIZURE CLAIMS

Where it was proved to the satisfaction of the Board of Management, War Risks (Goods) Insurance, that the loss of goods was due to seizure, the claim was rejected by the Board as not falling under the policy.

The Reconstituted Select Committee appointed by the Legislative Council of the Federation to consider Her Majesty's Government's new Proposals on War Damage Compensation with a view to recommending a revised comprehensive Scheme, considered in the first place whether seizure claims should be given treatment not less favourable than essential restoration claims. Although the Malayan Governments were advised that no legal liability existed in respect of seizure claims, the Committee were impressed by the fact that many people whose claims fell within the category of seizure, honestly believed that their losses were covered by the War Risks (Goods) Insurance Scheme.

At the first joint meeting of the Reconstituted Select Committee, held on the 12th July, 1949, it was resolved by a majority to recommend (although it was not included in their report) that claimants on account of seizure, who opt for a War Damage award, should be debarred from seeking a legal remedy in respect of the same property, and vice versa. This recommendation was later embodied in the War Damage Ordinances.

The Committee considered that the circumstances surrounding the rejection of seizure claims by the War Risks (Goods) Insurance Fund, and their relegation to War Damage, did not create any moral liability to pay assessed seizure claims in full; but, in view of further representations received, the Committee were of the opinion that a case to give seizure claimants more equitable treatment was one worthy of consideration.

In view of these considerations, the Committee unanimously recommended that seizure claims should be given treatment not less favourable than essential restoration, and that they be treated as a separate category of claim within the War Damage Compensation Scheme on the basis of a maximum of \$60 millions. This amount was to be subject to the same rule as applied to other categories of claim, i.e., that any saving in any particular category should not be applied to increase the amount available for any other category.

There was much discussion on this vexed question of seizure claims both in the Councils and in the several Committees appointed by the Councils. In the end the recommendation of the Reconstituted Select Committee recorded above were adopted with the exception that no special sub-category was created for seizure claims. The implementation of these recommendations is expressed in sub-paragraph 16 (6) of the Singapore Scheme [16 (7) of the Federation Scheme] as follows:

"The percentage paid on an award in respect of the seizure by the enemy of goods insured under the War Risks (Goods) Insurance Enactment, 1941, of the Federated Malay States or of any law corresponding thereto in force in any State or Settlement, in any case where the Board of Management of the War Risks (Goods) Insurance Fund has denied liability solely upon the ground that it is not liable for such seizure, shall not be less than the percentage paid on awards in respect of claims falling within category (a) or (b) of paragraph 3 of this Scheme, whichever may be the less, and the amount available for payment of other awards falling within the category, to which such award in respect of seizure belongs, shall be reduced accordingly."



Claims in category (a) and (b) of paragraph 3 of the Scheme refer to Tin and Rubber.

All these decisions were taken before "Seizure" was strictly defined. In fact, it was not defined until the War Damage Commission came into existence, and the practical question of what exactly seizure was had to be answered. The definition approved by the Commission at its eighth meeting was as follows:

Seizure goods may be defined as:

- (a) goods which were insured under the War Risks (Goods) Insurance Scheme, and in respect of which a premium had been paid up to the date of actual loss; and
- (b) goods in respect of which a claim has been submitted to the Board of Management, War Risks (Goods) Insurance Scheme, and which has been rejected solely on the grounds that the War Risks (Goods) Insurance Fund was not liable for such seizure; and

- (c) goods which were taken over for the use of the Japanese Military Administration Department by the act of sealing the premises in which they had been placed, or by placing an armed guard over those premises; or

goods which were physically removed by the Japanese Occupation Forces, or by their express authority, from the place where the goods had been stored by claimant to some other place; or

goods that were stranded on the railways, or roadways, or waterways of the country during the battle of Malaya and which were transported to some other place by the Japanese Authorities, or by someone acting under their instructions; or goods that were forceably taken by the Japanese Authorities, or by someone acting under their instructions, from the control and possession of their owners; or

goods abandoned by the owners and which the Japanese transferred to other persons for a consideration.

This definition has proved most practical in the assessment of seizure claims, and has not had to be modified since it was originally approved.

When the War Damage Ordinances eventually went to the Legislative Councils they contained the following proviso to Section 9: (Federation Ordinance):

"Provided that the percentage paid on assessed claims in respect of seizure by the enemy of goods insured under the War Risks (Goods) Insurance Enactment, 1941, or under any Ordinance or Enactment repealed by the War Risks (Goods) Insurance Ordinance, 1948, shall not, in any case where the Board of Management of the War Risks (Goods) Insurance Fund has denied liability solely upon the ground that it is not liable for such seizure, be less than the percentage paid in respect of assessed claims directly related to the business of Tin Mining or to the Rubber Planting Industry, whichever is the less".

The total seizure claims transferred to the War Damage Commission by the War Risks Insurance Fund amounted to some over \$100 millions. These will assess for just under \$60 millions. If the recommendation of the Select Committee above quoted to give a special sub-category with an enclosure of \$60 millions to seizure claims had been approved, these claims would have



received a dividend of 100 per cent. It was fortunate, therefore, that this part of the recommendation was not adopted, and that the Commission has freedom to declare the final dividend on seizure claims, taking into account all the factors bearing on this class of claim, and the rights of claimants in other classes.

The decision of the Board of Management, War Risks (Goods) Insurance Fund that seizure was not an insurable peril was applied by the Board also to Looting. Strange to say, claims for looting, which are very considerable in War Damage, did not amount to what might reasonably be expected in War Risks (Goods) Insurance. The total amount of such claims transferred by War Risks (Goods) Insurance to War Damage amounted to less than \$50 millions. These claims were not included with seizure claims for special consideration. They have been assessed in the ordinary manner by the War Damage Commission, and are subject to the dividend applicable to looting claims in respect of property for which there was no liability to insure.

The War Risks (Goods) Insurance legislation prescribed that certain classes of goods of a value of \$10,000 or over (later reduced to \$8,000) were liable to be insured under the Scheme. Many persons ignored this liability, and the circumstances were such that the Board of Management was unable to apply the penalties provided in the War Risks (Goods) Insurance legislation for this non-compliance with the law.

When, however, the War Damage Ordinances were being drafted, the facts were known and steps were taken to prevent those who failed to comply with the law from being placed in as favourable a position in War Damage as those who faithfully complied. The War Damage Ordinance contains the following definition of "damage":

"Damage" means damage to corporeal property and includes injury to and permanent loss of such property but does not include damage or loss in respect of money, securities for money, the diminution of profits and earnings, personal injuries, and damage or loss to goods, insurable under the War Risks (Goods) Insurance Enactment 1941, or under any Ordinance or Enactment repealed by the War Risks (Goods) Insurance Ordinance, 1948:

Provided that where—

- (b) the Commission is satisfied that it was impracticable for a person under a legal obligation to insure any goods to insure such goods or to insure any goods for the full amount, the Commission may allow any damage or loss to such goods to be treated as damage within the meaning of this definition.

This definition of "damage", with its proviso, was a barrier that stopped a large number of claims in War Damage. Those who had believed that they were going to get the best of the two worlds of War Risks and War Damage, found themselves questioned by the War Damage Assessor as to why they failed to insure. Some of the excuses were very interesting:

"Knew nothing about War Risks Insurance"

"Against my religion to insure"

"Did not think war would come to Malaya"

"Considered it was another method of taxation".

Unless War Damage were quite satisfied that there had been frustration to insure, the claim for such goods was rejected. Where there was partial insurance and total loss, the Commission approved the value of goods insured; where there was part insurance and part loss, the Commission applied average.



A difficulty arose over time. Goods lost in those parts of Malaya that were occupied by the Japanese before the end of 1941, did not present a difficulty, but as the first quarter's insurance for 1942, fell due on the 1st January, 1942, and as the Japanese on that date were advancing rapidly down the Peninsula, it was clearly equitable to allow a time margin, although such allowance was not made by the War Risks (Goods) Insurance Fund.

The question was given careful consideration by the Commission, most members of which were in Malaya at the time of the invasion, and knew the circumstances prevailing during that time. The Commission decided to allow a period of fifteen days grace within which renewal was required. If the Japanese reached the location of the goods before the expiration of the period of grace, non-renewal of insurance was accepted and the War Damage claim admitted for consideration. The period of grace was designed to cover the confusion that existed in January, 1942. In cases where renewal was not effected and the enemy had not reached the location of loss within the period of grace, the claim was rejected, provided the reason for failure to renew was judged inadequate.

The lowering of the limit of insurance from \$10,000 to \$8,000 with effect from the 1st January, 1942, was a very great complication of this problem. The Commission applied the rule where it could clearly be applied; that is to say, where claimant had the opportunity to comply with the law and did not comply. Border line cases were given the benefit of the doubt.

Another curious result of the definition of "damage" in the War Damage Ordinance was that many claimants were caught out by their own greed. A claimant with goods truly valued at, say, \$7,000, and who was therefore not under any obligation to insure, claimed for a much greater sum, and insisted that such greater sum was the value of the goods he lost. But this greater sum made him liable to insure under the War Risks (Goods) Insurance Enactment; and, as he had not insured, and had no adequate excuse for not insuring, he fell back on the truth and admitted that the value of his goods was an amount below the insurance limit. Naturally the War Damage Assessors were most sceptical of such admission, and claimant suffered accordingly.

An ever recurrent difficulty arose when the Commission's Assessors came to assess claims that had been assessed by the War Risks (Goods) Insurance staff and a compromise settlement effected. As the "balance" of the claim had to be considered by War Damage, the question arose in many cases: what exactly was the balance? Was it the total amount of the claim less the actual settlement, or was it the total amount of the claim less the portion accepted by the Board of Management, War Risks (Goods) Insurance as proved and on which a compromise settlement was offered? Each case was a problem in itself because of the many factors involved.

Some claimants submitted a claim to the Government under the Emergency or Defence Regulations in respect of goods lost through requisitioning; they submitted the same claim to the War Risks (Goods) Insurance Fund, and again to War Damage. It was a case of backing all the horses in the race; but it was confusing to those who had to deal with these claims, and, if one horse lost, it did not follow that either of the others would win.



## CHAPTER IX

### LEGAL LIABILITY CLAIMS AND DENIAL CLAIMS

During the emergency of 1941/42 liability was incurred under the Emergency and Defence Regulations by the requisitioning of land for camp sites, vehicles and vessels for use of the Armed Forces and Government, and various goods and services. Houses were also requisitioned for the use of Military and Government.

It was realized at an early date that such claims falling under the Emergency and Defence Compensation Regulations had better be dealt with by an office working independently of the War Damage Claims Commission, and such an office was set up at the beginning of 1947, with funds provided from Revenue, for the assessment and settlement of these claims. This office both in Kuala Lumpur and Singapore functioned independently until the beginning of 1948 when the majority of claims submitted to it were settled. It then became merged in the War Damage Claims Commission for various reasons, not least important of which was the large body of claims consequent on the scorched earth policy adopted in January and February, 1942, and which were submitted originally under the Emergency and Defence Regulations. These were called denial claims and became the subject of considerable controversy.

As the Japanese progressed down the Peninsula, instructions were issued to destroy stocks of rubber, machinery, equipment, vehicles, vessels, stores and, generally, anything that would aid the enemy in his campaign. Before destruction, in some cases, the property was requisitioned by the Competent Authority under the Emergency or the Defence Regulations, and a proper requisition voucher was issued. The speed and volume of destruction, however, were eventually so great that denial on a large scale was carried out on the verbal instructions of the Military, and Government Officers.

It was the general practice of the Army to requisition large stocks of electrical equipment, transport spare parts, machinery of various kinds and transport. The requisitioned property was moved South and labelled with the names of the owners. Should the Army have succeeded in stopping the Japanese, it was the intention to return this requisitioned property to the owners, and in such case no liability under the Emergency or the Defence Regulations would arise. In the event, return was impossible, and the requisitioned property fell into the hands of the Japanese. We now know that it would have fallen into the hands of the Japanese in any case, and such claim as might be submitted for it would be a claim in War Damage.

Some of the requisition vouchers issued by the Army in respect of this equipment used the words "Requisitioned for Denial or Use". If the equipment were requisitioned for use, then the Army Claims Commission should have dealt with whatever claim was submitted. Following a discussion with the Army Claims Commission, at which the Attorney-General of the Federation presided, the position was represented to the Secretary of State and the Attorney-General's interpretation of the legal aspects set out.

The attitude of the Army Council was that despite the policy of adhering as closely as possible to the laws of the country concerned in the investigation and settlement of claims made by the Civil population, it would not assume responsibility in respect of damage, whether accidental or not, resulting from all or any of the following acts or operations—

- (a) Action of any kind whatsoever taken by the enemy.
- (b) Action taken by the Allied Forces in operations against the enemy, or what was believed to be the enemy.





- (c) Destructive measures carried out by the Allied Forces for the purpose of denying to the enemy access to or use of goods, installations, properties or premises of any kind whatsoever.
- (d) The evacuation of persons or property carried out by the Allied Forces for the purpose of denying to the enemy access to, or the use of, the services of such persons or property.
- (e) Precautionary or preparatory measures including the destruction of buildings or crops, the flooding of land, the adaptation of land to military purposes or other interferences with property or persons taken by the Allied Forces, in order to prevent, hinder or destroy any anticipated action by the enemy.
- (f) Measures taken by the Allied Forces to mitigate the effect of, or to avoid the spreading of, the consequences of all or any of the types of the actions specified above.

Thus the Army Council made it quite clear that no liability for Denial Requisitioning or the results of the "Scorched Earth" policy would be entertained. So far as the Civil Government were concerned, a decision had to be made whether these claims should be accepted as a Civil Liability, or as ordinary War Damage. The Army Claims Commission had always regarded such claims as proper to War Damage, but there was a precedent for Civil Liability in Burma. The law in Malaya, however, differed materially from the law in Burma on this matter.

The whole question became an urgent one, and Sir George Maxwell addressed a letter to the London Daily Telegraph in May, 1949, urging the British Government to lose no time in making an honourable admission of its responsibility for the "Scorched Earth" policy of 1941-2. Actually there never was any suggestion to repudiate liability; but there were several suggestions as to how such claims should be treated.

It was finally decided that all "Denial" or "Scorched Earth" claims should be treated as War Damage; and, following this decision, an article was prepared by the Chairman of the Commission setting out the decision, and explaining the various complications surrounding it. This article appeared in the Press in May, 1950. It stated:

"Claims for Denial and Demolition."

The passing of the War Damage Ordinance, 1949, placed all denial and demolition claims in the category of War Damage; that is to say, subject to be assessed under the War Damage Ordinance. Section 13 of that Ordinance, however, contains a proviso permitting claimants to exercise the option, within a period ending June 30th, 1950, to have claims for denial and demolition considered not under the War Damage Ordinance but under the Emergency or the Defence Regulations.

Where a claim is assessed under the War Damage Ordinance the award, if any is approved, is subject to the dividend applicable to the particular category of claim (Rubber, Tin, Private Chattels or Business) to which it belongs; where however a claim is assessed under the Emergency or the Defence Regulations, the assessment approved is paid without abatement in respect of dividend; but it should, however, be remembered that the assessment is based on the value of the property at the time of requisitioning. In certain circumstances, therefore, it is to the advantage of the claimant to have his claim assessed under the Emergency or the Defence Regulations, and claimants will naturally wish to know whether their claim qualifies for assessment under these Regulations.



The War Damage Ordinance provides in Section 2 for payments to be made out of the War Damage Fund where a judgement of a court, or an award under any written law other than the War Damage Ordinance, has been obtained in respect of damage within the meaning of sub-paragraph (d) of the definition of war damage in Section 2 of that Ordinance. This sub-paragraph reads:

“War damage means damage occurring (whether accidentally or not), as a direct result—

- (i) of any precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by the enemy; or
- (ii) of precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action;
- (iii) of any measures taken with a view to preventing or hindering the enemy from taking or using any property;
- (iv) of any action taken by any of Her Majesty's Forces or the forces of any power allied to Her Majesty:

Provided that measures mentioned in this paragraph do not include the imposing of restrictions on the display of lights or measures taken for training.”

It will be seen that Section 2, sub-paragraph (d), of the War Damage Ordinance does not exhaust the definition of War Damage, but confines itself to what are conveniently described as acts of denial and demolition. Where proof that such acts were carried out under proper instruction is available, the claim may more properly and advantageously be assessed under the Emergency or the Defence Regulations. This is the question that must be decided by claimants. If the claimant considers that his claim is in respect of damage occurring as a direct result of the acts detailed in Section 2, sub-paragraph (d), of the War Damage Ordinance, and if he is in a position to provide proof that this is so, he should exercise the option in section 13 of the War Damage Ordinance before the 30th June, 1950.

Requisitioning for purposes of denial was carried out under Regulation 59 of the Emergency, or the Defence, Regulations; requisitioning for purposes of demolition i.e., destruction in situ, was carried out under Regulation 55 of these Regulations. A difficulty arises in that while the competent authority to requisition under Regulation 59 was confined to the Governor and High Commissioner, and such other officers as he specifically appointed for this purpose, the competent authority under Regulation 55 includes also members of the forces of Her Britannic Majesty or of the Federated Malay States or Straits Settlements acting in the course of their duty as such.

The War Damage Commission at its meeting on the 12th April, 1950, considered this difficulty, and also the fact that a number of requisitions for denial purposes were made by officers of the forces of Her Britannic Majesty, by senior Government officials and by officers of the various Volunteer Forces. Its attention was also directed to the fact that there are cases where it was not certain whether property was requisitioned for denial or for use.

The Commission decided that the Governments of the Federation and the Colony be asked to appoint an “Authority” to determine disputes or claims arising from requisitions made under the Emergency and the Defence Regulations. The Commission also recorded the opinion that:

- (a) where there was some doubt whether the requisition was for denial or use, the benefit of that doubt should be given to the claimant; and



(b) that all requisitions for denial and demolition, if carried out under the instructions of a Competent Authority under the Emergency or the Defence Regulations, or, if not a competent authority specifically appointed, a senior Government officer or a member of Her Majesty's Forces, or of a local Volunteer Forces, should be accepted as requisitions properly carried out.

The Governments of the Federation and the Colony appointed the War Damage Commission to be the "Authority" to determine disputes or claims arising from requisitions made under the Emergency and the Defence Regulations. This means that where a claimant considers that he has a claim for denial or demolition, which he can prove was carried out under proper instructions, and exercises the option in section 13 of the War Damage Ordinance, his claim is considered by the War Damage Commission under the Emergency or the Defence (Compensation) Regulations, and, if approved, the amount of the assessment is paid in full. If, however, the claimant fails to prove that the denial or demolition was carried out under proper instructions or, although ordered to be done, was not effectively carried out, the claim will have to be rejected and will not be eligible to revert to War Damage as an ordinary war damage loss.

This was an important disability. If the claimant failed to establish his claim under the Emergency or Defence Regulations he could not go back to War Damage, but he could appeal against the decision and his appeal would be heard by an independent Claims Tribunal appointed for each State and Settlement. The public was therefore warned by the Commission in the Press that it was important to have an indisputable claim before taking the risk of exercising the option in section 13 of the War Damage Ordinance.

What was of the greatest importance to claimants was that the Commission, when dealing with these claims, drew no distinction between requisitions for use and requisitions for denial. In the sequel they amounted to the same thing, and the decision of the Commission was the equitable solution of what had been a controversial issue.

Also the decision of the Commission to accept implied Competent Authority to requisition for denial or for use, or simply to deny, was very important because most of the denial requisitions, and acts of denial, were performed by persons who had not been specifically appointed as Competent Authorities to requisition under the Emergency and the Defence Regulations. The decision removed a technical barrier from a large number of claims.

There remained many cases where Managers of Estates, Tin Mines and industrial concerns denied their property to the enemy without having received formal notice of requisitioning from a Competent Authority, or an implied competent authority. These claimants were anxious to know what their position was.

The answer lay in the reason for their action to deny their property. If their reason for the act of denial was such that implied competent authority could be assumed, they could then take legal advice whether it was wise to exercise the option or not.

The Press notice issued by the Commission on this subject indicated that in certain circumstances it might be to the advantage of a claimant to have his claim assessed under the Emergency or the Defence Regulations. Actually it may be stated generally that where a claim would qualify for an Outright Award in War Damage, the advantage lay in having the assessment under the Emergency or the Defence Regulations because no dividend applied to awards made under the latter and the method of computing the assessment



on pre-war costs would be similar. Where, however, a claim would normally qualify for a restoration award in War Damage (the destruction of a bridge or a factory for example), then there was a distinct advantage to claimant to have his claim assessed in War Damage, because the assessment would be computed on actual restoration costs, which, because of the steep decline in the purchasing power of the dollar, were two or three times greater than corresponding pre-war costs.

The Commission could not give advice to claimants about individual claims.

It is interesting to record that relatively few claimants exercised the option under section 13 of the War Damage Ordinances.

In one respect the Army Claims Commission relaxed its rule regarding demolitions for denial and defence; namely, where the demolition took place before the landing of Japanese troops in Malaya. Liability by the Army Claims Commission was accepted in such cases, and this affected particularly many houses along the shore in Singapore.

The conclusion should not be drawn from what has been written above that any tension existed between the Army Claims Commission and the War Damage Claims Commission. The contrary was the case. The Army Claims Commission was controlled by officers of intelligence and tact, and most cordial relations existed at all times with them. Indeed, without such relations, the vast body of claims dealt with by them, and the Legal Liability claims dealt with by Government and later by the Commission, could not have been cleared in the relatively short time it took to settle these claims.



## CHAPTER X

## THE WAR DAMAGE ORDINANCES.

So much had been agreed in the Councils concerning the setting up of a War Damage Commission, the provision of funds, the broad principles of assessment, the extent of categories of claims, the treatment of Seizure and Denial, that the drafting of the Ordinances was largely outlined when the Legal Departments took it in hand.

The most important terms to be defined in the Ordinances were the terms "damage" and "war damage", because these terms are applied carefully in the assessment of all claims. Where exactly depreciation ceases and war damage steps in, what portion of repairs and replacements should be allocated to accumulated maintenance and what to War Damage, what was ordinary accident and what was due to an act of war are ever recurring questions in the work of the Commission.

The definition of War Damage in the Ordinances is so fundamental and important in the work of the Commission that it is repeated below:

"war damage" means damage occurring during the war damage period and which is—

- (a) damage occurring (whether accidentally or not) as a direct result of action taken by the enemy; or
- (b) damage occurring (whether accidentally or not) as a direct result of measures taken in connection with an apprehended attack whether imminent or not of the enemy or in repelling an imagined attack by the enemy; or
- (c) damage occurring (whether accidentally or not) as a direct result of measures taken under proper authority to avoid the spreading of, or otherwise to mitigate the consequences of, such damage as aforesaid; or
- (d) damage occurring (whether accidentally or not) as a direct result—
  - (i) of any precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by the enemy; or
  - (ii) of precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action;
  - (iii) of any measure taken with a view to preventing or hindering the enemy from taking or using any property;
  - (iv) of any action taken by any of Her Majesty's Forces or the forces of any power allied to Her Majesty:
 

Provided that the measures mentioned in this paragraph do not include the imposing of restrictions on the display of lights or measures taken for training; or
- (e) damage occurring (whether accidentally or not) as a direct result of the breakdown of organised Government; or
- (f) damage occurring as a direct result of an owner's inability to protect his property for reasons directly connected with the occupation of Malaya by the Japanese; or
- (g) damage occurring as a result of seizure of movable property by enemy forces or individual enemy subjects whether acting under authority or not."



The Ordinances established a Commission to be called the War Damage Commission consisting of twelve members, including a Chairman and Deputy Chairman, all of whom were to be appointed jointly by the High Commissioner and the Governor of the Colony. This replaced the original War Damage Claims Commission, which was a joint Government Department created in 1946 to prepare the way for a War Damage Scheme. Thus on the 31st December, 1949, the War Damage Claims Commission ceased to exist, and on the 1st January, 1950, the War Damage Commission, being a statutory body established by the War Damage Ordinances, came into being.

Of the twelve Commissioners four are ex-officio officials of Government and the Commission. Thus the Commission has a strong non-official majority, and all questions submitted to it are debated with a freedom and variety of outlook that is both exhilarating and highly efficient.

The original twelve Commissioners were:

- The Hon. Financial Secretary, Federation (Mr. W. D. Godsall, C.M.G.)
- The Hon. Financial Secretary, Singapore (Mr. J. E. Pepper)
- The Hon. Colonel H. S. Lee, C.B.E., J.P., M.A.
- The Hon. Mr. C. W. Warren, J.P.
- The Hon. Mr. M. J. Namazie
- The Hon. Mr. J. D. Mead, C.B.E.
- Mr. Lee Kong Chian
- The Hon. Dato Hamzah
- Mr. A. Cromarty
- Mr. M. J. Kemlo
- Mr. S. E. Chamier, M.C., E.D., Deputy Chairman
- Mr. R. Graham, Chairman.

Of these original members the Commission has lost Mr. Godsall, Mr. Mead, Dato Hamzah, Mr. Lee Kong Chian and Mr. Kemlo. To these five officers is due a special expression of gratitude in that they were with the Commission during the debate and solution of some of its most difficult questions. The Hon. Mr. E. Himsworth has taken the place of Mr. Godsall. The Hon. Mr. W. C. Taylor has taken the place of Mr. Pepper. Mr. Lee Kong Chian has been replaced by Mr. Yap Pheng Geck, Dato Hamzah by the Hon. Inche Yahya, Mr. Kemlo by Mr. Salmond and Mr. Mead by Mr. Cleveland.

Mr. G. Child of Shell Company took Mr. Salmond's place recently while the latter was on leave. During the absence of Mr. Mead on leave his place was taken by the late Mr. P. Marriot, whose knowledge of the Tin Mining Industry was of the greatest assistance to the Commission. Mr. Lord has acted for Mr. Chamier for a period of about 14 months. Mr. Chamier has acted as Chairman when Mr. Graham was absent on leave.

It was by this body of men that the many important decisions of the Commission were taken, and the foundation laid for the organisation that was built up to handle claims amounting to some \$1,415 millions. The policy adopted at the first meetings of the Commission has been consistently maintained, and the decisions made have shown themselves in the sequel to have been the right decisions.

No fee is paid to members serving on the Commission. The work, which falls on each Commissioner is considerable, and includes, besides the general meetings, attendance on Appeal Boards, and, for some, attendance on Staff Committees. The attendance at the general meetings is excellent; it is usually a full attendance, and is marked by a keenness of interest in the



problems to be solved that is admirable, and a source of consistent inspiration to the official members. What would strike a stranger attending one of these meetings is the clear grasp of the questions at issue shown by members, the courtesy of debate, the willingness to compromise where there is a marked divergence of view, and, above all, the deep concern for the economic welfare of Malaya. Again and again that concern is the deciding factor where different ways open up before the Commission.

The Ordinances gave officers of the Commission adequate powers to obtain the information required from claimant to make the assessment. Officers can require a claimant to give such information in his possession as he could be required to give by a Court, and to produce for inspection any books of account or other documents relevant to any assessment. Officers of the Commission have power to enter at all reasonable hours on any land, building or other premises on which War Damage is claimed for the purpose of obtaining information as to the nature and extent of the damage, the present and former state of the premises and the value. They can require any person in possession of, or having the custody or control of any movable property, in respect of which War Damage is claimed to have occurred, to make such property available for inspection by the Commission.

Generally speaking claimants are most helpful in giving the information required by officers of the Commission; but there are exceptions where the powers given by the Ordinance to this end have to be invoked. There is also the point that in many cases the officers of the Commission are given no more proof of loss, or of the possession of property claimed to have been lost, than the claimant's statement. Generally this is not enough, though in the case of Private Chattels the statement can possibly be accepted. The Commission is frequently compelled to seek elsewhere the proof of statements made by claimant, and, in effect, to find the evidence which claimant has failed to produce.

On the East Coast particularly, the aid of the Penghulu is frequently invoked by the Commission to confirm statements made in claims; and it is remarkable what an intimate knowledge some of these Penghulus possess of facts and events in their respective Kampongs. They are able to correct again and again such items as the number of livestock claimed, the condition of houses stated to have been destroyed, whether or not the Japanese paid particular claimants for rice or other foodstuffs commandeered, whether such property destroyed or damaged was actually owned by claimant at the date of damage, or what other persons have a proprietary interest in the claim.

The Ordinances also include a penalty section in respect of failure to furnish information requested by the Commission's officers or to furnish correct information. This section also covers wilful obstruction of the Commission's officers in the performance of their duties. So far it has not been necessary to invoke the penalty section, though there have been cases of wrong information given which might have been brought under it. Many claims were prepared by petition writers for a small fee, and items were entered in such claims which were found on investigation to be most dubious. It is reported that a petition writer on the East Coast was prepared to insert in a claim form a whole herd of buffaloes for a very modest fee; and, though this may be an exaggeration, the Commission has reason to believe that strict accuracy was not followed. All these practices increased the difficulty of assessment.

The Ordinances gave power to put into operation a Scheme to be called the War Damage Scheme, providing for the making of payments by the Commission out of a War Damage Fund. This War Damage Scheme prescribed maximum and minimum limits, manner and terms of payments in respect of all classes of War Damage.



The Scheme laid down the principles to be followed by the Commission in making Awards on claims submitted on behalf of deceased persons or in respect of Trust property. It also laid down the conditions subject to which any claim to the payment of an Award might be assigned to another person.

The War Damage Scheme was drafted immediately after the passing of the Ordinances and was approved by the two Executive Councils in the middle of March, 1950. This date is important as marking the point where the War Damage Commission was able to issue Rules of Assessment and to begin the actual work of investigating claims.

The Ordinances recognised that the funds available to pay claims were insufficient to pay 100 per cent. of the Awards made. This meant that a system of dividend payment had to be introduced. The Ordinances provided for this by stating that where the total amount of the awards made by the Commission in respect of any class or category of claim exceeds the sum allocated in the Ordinance for the payment of that class or category, payment in respect of any Award within such class or category should be abated rateably.

Thus the primary object of dividends is to permit the abatement of the Award to the extent required by the funds available to pay claims in the particular category to which the Award belongs. Also, as the funds available for paying Awards are released to the Commission gradually, part payments are inevitable. There was no escape from the dividend system employed by the Commission.

The Ordinances provided that all expenses incurred by the War Damage Claims Commission, and by the War Damage Commission in connection with the carrying out of the Scheme, should be a first charge on, and be paid out of, the War Damage Fund. This meant that the sums specified for the payment of claims in each of the four categories would be reduced *pro rata* by the expenses incurred in preparing for, and in carrying out, the War Damage Scheme.

A very important principle was set out in Section 11 of the Ordinances; namely, that no person should have an absolute right to any payment in respect of War Damage. This, of course, did not apply to awards made under the Emergency and Defence Regulations in respect of Denial. It meant that all payments under the War Damage legislation were *ex gratia* payments. This fact is frequently overlooked by claimants when addressing demands to the Commission.

Provision was made in Section 13 of the Ordinances for all claims in respect of War Damage to be brought within the legislation of the War Damage Ordinances. To this there was a proviso that the section would not apply to any person who within six months of the commencement of the Ordinances gave notice in writing to the Commission that he did not wish to proceed under the War Damage Ordinance with a claim in respect of damage occurring as a result of seizure of goods or damage within the meaning of paragraph (d) of the definition of War Damage (quoted above). This fulfilled Government's obligation to claimants, especially of seizure of goods and denial, and permitted them to pursue their claims outside the War Damage Ordinances, if they were so minded. A number of claimants for denial exercised this option.

The drafting of the War Damage Scheme was a most difficult, and in some ways, controversial task, and I should like at once to place on record the most valuable services contributed to this task by Mr. Brodie of the Legal Department. It is to him, more than to any other officer, that I think is due the credit for a Scheme that has proved practicable and sound in implementation.





As stated above there were two War Damage Ordinances; one approved by the Legislative Council of Singapore, and an identical Ordinance approved by the Legislative Council of the Federation. There were two corresponding War Damage Schemes; but, unfortunately, these are not quite identical, a certain difference of opinion having arisen between Singapore and the Federation in respect of the interpretation of the Ordinance and the treatment of certain types of claim. The differences are, however, small and so far have had no practical importance in the assessment and payment of claims.

### RESTORATION AWARDS AND OUTRIGHT AWARDS

A division that has to be made by the Assessment Board, when considering each claim, is between Restoration and Outright. When a Restoration Award is made, the Assessment Board adds the words "Restoration completed" or "Restoration as detailed below not yet completed". Where the Restoration is not yet completed at the time of making the Award, claimant is asked to complete a Restoration Agreement with the Commission undertaking to carry out the restoration as detailed by the Commission in the Agreement before a certain date. On the signing of this Agreement claimant is paid an *Outright* Award on that portion of the Restoration Award which refers to restoration not yet completed. When eventually the restoration is completed to the satisfaction of the Commission, claimant receives all dividends due to date on the Restoration Award. Thus in the event of claimant not carrying out the Agreement to restore for reasons which do not satisfy the Commission, it is possible to cancel the Restoration Award in respect of that portion of the Restoration not completed and to substitute an Outright Award.

Restoration time limits present a difficulty in present conditions in Malaya. For example, an Estate may be required by the Commission to start replanting a certain area of rubber cut out by the Japanese and for which the Assessment Board has made a Restoration Award. Usually one year or two years are allowed for this work; but security conditions in the area may be such as to prevent work being carried out. There is not only the work of clearing and replanting, but there is the work over a number of years of tending the young rubber, keeping it clear of undergrowth and protected from wild animals. Timetables are being upset by the Emergency.

A distinction was made by the Legislative Councils between assessments for buildings partly and completely destroyed, and occupied by the owner for the purposes of his business. Where a building is totally destroyed, it qualifies for a Restoration Award; where it is partly destroyed, it qualifies for a Restoration Award to the extent to which it was occupied by the owner for the purposes of his business. Although these rules have been applied successfully, they are sometimes complicated.

Claimants are frequently not in a position to restore. For example the original owner on whose behalf the claim was submitted may be dead, and his beneficiaries may not be interested or capable of continuing his business. Also, in the case of Tin Mines, ore reserves may be exhausted, or so near exhaustion, that restoration would not be an economic undertaking. The Commission has power where they are of opinion that, in the particular circumstances of any case, it is impracticable, unreasonable, inequitable or not economically justifiable to require the restoration of any property damaged, or where claimant is unable to restore such property to the extent which the Commission considers reasonable, to make an Outright Award in respect of such claim. This power has to be exercised frequently by the Commission in respect of items in claims. There are, however, exceptions to this in the Rubber claim category which will be discussed later.



Similarly where the claim is made by trustees or personal representatives, or by a person beneficially interested in the Estate of a deceased person, or by or on behalf of persons having a limited interest or a joint or several interest in the property damaged, it is generally not practicable to require restoration, and the Commission must take into account the circumstances of the claim when making an Award.

Finally, the Commission is given power, at its absolute discretion in respect of any claim, other than those categories of claim where a restoration award is specifically required by the Scheme, to make either a Restoration Award or an Outright Award. This is a useful authority, and allows all sorts of circumstances to be taken into account when making an award. The guiding rule is generally whether a Restoration Award, in any particular case where it is practicable, is in the economic interests of the country.

It is natural to expect that claimants when carrying out restoration will decide on their own particular interests, and apart altogether from War Damage, what form and extent restoration will take. An engine may be replaced by one of greater horse-power, or smaller horse-power. The Commission has had to deal with cases where though there was a substantial reduction in horse-power, there was a substantial increase in efficiency and output. The general rule followed is that where partial restoration only is carried out by claimant, the Restoration Award is restricted to the cost of such restoration; where claimant has expanded, the increased cost of restoration required is classed as betterment and is not paid by the Commission. The general measuring rod is always 1941 production capacity. It is appreciated that 1941 was a year of exceptional effort in Malaya's industries; but, even so, it is considered that no other year would provide a more practical standard.

In applying both Restoration and Outright Awards, the question of depreciation is important. The Scheme provides that no Outright Award shall in any case exceed the amount by which such property or interest therein, in respect of which the award is computed, may reasonably be considered to have been depreciated in value in consequence of War Damage, having regard to the state or condition of such property or interest immediately before the occurrence of the damage. Thus the Commission must compute the depreciated value of the property prior to the War Damage, and then assess what further diminution in value took place by reason of the War Damage. Claimants, when compiling their claims, invariably overlooked this necessity to depreciate.

### TRANSFER OF CLAIM RIGHTS

Long before the War Damage legislation was passed, the War Damage Claims Commission was answering questions about the transfer of claim rights. This was inevitable because there were many sales of property that had suffered War Damage, and the transferor and transferee wished to know exactly how they stood in respect of any awards that might be made on War Damage claims submitted.

The problem had a dangerous side. If the law were so worded as to facilitate the transfer of War Damage claim rights, there might develop a market in these rights. Also the main object of the proposed scheme; namely, actual restoration, might be made most difficult if not impossible where a transfer had been made.



It was decided that the example of the United Kingdom War Damage Commission be followed and transfers of claim rights be linked closely to transfers of the actual property in respect of which the claim had been made. Also that such transfers of claim rights, even where they were linked to actual property transferred for legal reasons, such as a sale, be specially approved by the Commission on request from the transferor or the transferee, and that such request be in writing and accompanied by documents proving the transfer of the property and for the reasons stated. If the Commission had any doubt about the good faith of the transaction, it would not approve the transfer of the claim rights.

These restrictions have proved adequate to prevent any transfers of claim rights other than those that might legitimately be sought. The Commission was interested in that approval of a transfer of claim rights might mean that the transferee would be in a position to carry out restoration, whereas a transferor would not be able to restore after the property had left his control.

Thus it works out that a seller of property that has suffered War Damage does not get the greatest benefit out of his property if he sells it before he carries out restoration and if he retains the claim rights. In such event he sells at a figure lowered by the amount of damage his property has sustained, and he is entitled to claim only an Outright Award since he cannot enter into an Agreement with the Commission to restore property he no longer owns. Many sellers, however, transfer the claim rights with the property and so discount these claim rights in the selling price as best they can.



## CHAPTER XI

### GENERAL ORGANISATION

When the War Damage Ordinances were approved, the first steps were taken to set up a staff adequate to handle the claims submitted. It was decided to form a Staff Committee consisting of the Deputy Chairman of the Commission as Chairman, and two unofficial members of the Commission as members. This Staff Committee would be concerned with the appointment of the two main classes; namely Assessors and Investigators. They would decide on the terms to be offered in each case, and would make the appointments after interviewing applicants. They would consider what officers should receive allowances, and what adjustments of terms were necessary from time to time.

All officers above the rank of Assessor would be appointed by the full Commission; all officers below the rank of Investigator would be appointed by the Chairman. This clear cut arrangement has worked extremely well.

Officers above the rank of Assessor were, passing upwards, Superintending Assessors, and Advisers. Superintending Assessors were of two kinds, which could be interchanged as required:

- (i) Superintending Assessors in charge of Assessment Districts.
- (ii) Superintending Assessors in charge of a Category (or sub-category) of claim.

The work of (i) above will be discussed in detail under the heading of Branch Offices. The work of (ii) is particularly interesting and important in the organisation set up.

Superintending Assessors shown against (ii) above are in effect advisers to the Commission in respect of particular categories (or sub-categories) of claim. It will be simpler, therefore, to consider in this paragraph the work of Advisers. They are expected to be experts on the category of claim to which they are attached (Rubber, Tin, Agriculture, Buildings, Engineering, Private Chattels). They draft technical rules of assessment for their particular categories, and see that these rules keep in step with information provided by claims reaching the Assessment Boards. They obtain and express the point of view of the various interests represented by their particular claims. All claims in their respective categories, except the smallest and least important, pass through their hands when coming from the Branch Offices to the Assessment Boards. They are thus able to unify method and to keep Assessors in line in their approach to claims. Finally, Advisers sit on Assessment Boards as Chairman when claims in their own category, and especially those where technical knowledge is involved, are submitted for award. This system has worked remarkably well in practice, and has insured a very close control over the work of Assessors who are attached to Branch Offices and therefore tend to some degree to get out of touch with others working in different districts.

There are three other posts which for salary range and importance are really within the same category of Superintending Assessor/Adviser. These are the Technical Adviser on Assessments, the Accountant and the Secretary. The Technical Adviser on Assessments was appointed with the original intention of instructing the raw staff taken on by the Commission in their



duties. The Accountant had, in addition to his normal duties, the control of all Tin Panels, which were in effect the Tin Assessment Boards. His work as Accountant is steadily increasing as dividends multiply and assessments mount up; his work as Chairman of the Tin Panels is now almost completed. The Secretary is appointed by the High Commissioner of the Federation and the Governor of Singapore. It is difficult to state what are the limits to his duties. He is concerned with the carrying out of the provisions in the legislation, with the general administration of the staff and with public contacts.

Below the rank of Investigator come the clerical staff, stenographers, typists, peons, etc. But in addition to these there are a number of appointments some of which carry a special salary because of their difficulty and importance. There is the Registrar of Claims, who controls all file movements, the Assistant Secretary and the Assistant Accountant. There are also Confidential Secretaries, who attend Commission Meetings, Tin Panels, Assessment Boards, Appeal Boards and Staff Committee meetings for the purpose of recording the discussions and the decisions of these bodies.

Malaya was divided up into seven Assessment districts; namely,  
Singapore,

Johore,

Central (including Selangor, Malacca and Negri Sembilan),

Perak,

Fraser's Hill (including West Pahang and North East Selangor),

North (including Penang, Province Wellesley, Kedah and Perlis),

East Coast (including Kelantan, Trengganu and East Pahang).

Corresponding with these, six Branch and three Sub-Offices were opened. The Branch Offices were Singapore, Johore Bharu, Seremban, Ipoh, Penang and Kota Bharu. The Sub-Offices were Malacca, Fraser's Hill and Victory Avenue, Kuala Lumpur. Singapore and Seremban are classed together as the largest Branch Offices, and between them have claims amounting to nearly \$900 millions. Malacca and Victory Avenue, Kuala Lumpur, sub-offices are operated under the control of the Superintending Assessor, Seremban. Fraser's Hill sub-office (which is now closed) was independant.

These Assessing Districts have had to be modified under the pressure of circumstances. On account of security conditions in Johore, especially in the Segamat and Muar areas, it was decided to assess these two areas from Seremban and Malacca respectively. This meant easier access to the areas, and assessors could get back to their respective offices before dark. Johore Bharu is not situated very conveniently for assessing work in Johore except in the southern area. The large group of Rubber Estates round Kluang, which has always been a dangerous area, has had to be assessed by an Assessor living in Kluang and working the estates by armoured car.

Johore suffered considerable damage to buildings during the battle of Malaya. Claims for destroyed and damaged buildings in Johore approach 5,000, and the majority of these are located in the neighbourhood of Johore Bharu. There is a competent Buildings Assessor at Johore Bharu, but buildings and engineering tend to be grouped with Singapore where the largest staff of building and engineering Assessors works.

West Pahang was one of the worst bandit areas, and considerable thought was given to the problem of assessing the large number of important claims from Raub, Kuala Lipis, Bentong, Temerloh and Mentakab areas. The Commission was successful in renting Victory Bungalow on Fraser's



Hill at a very reasonable rental from the Pahang Government. A small staff with an armoured car was installed, and West Pahang was worked from this point. The work was highly dangerous. Mr. Wishart, the Assessor, penetrated into West Pahang on runs in the armoured car sometimes requiring three days to complete. Mr. Stiven completed all the Rubber Estates claims in this large area. In the photograph section of this Report will be found a photograph of Mr. Wishart and Mr. Stiven about to begin a tour of assessment.

The assessment of Raub Gold was a problem in itself. At the time this assessment had to be made, the security conditions in the Raub Gold Mine area were particularly bad. The Commission's Assessor was flown into and out of the Mine on two occasions by special plane.

In Southern Johore there were, before the war, a large group of Tin Mines, worked by Chinese in the Kota Tinggi and Jemaluang areas. The assessment of Tin Mining claims from these areas presented a special problem, because the police in charge of the areas refused to allow the Commission's Assessor to penetrate. Nevertheless, these claims have been assessed. The same difficulties presented themselves to the Commission in the Grik area of Perak. Mr. A. T. Edwards penetrated to Grik in an ordinary car, and, with the valuable assistance of the District Officer there, cleared up all claims in the area.

These incidents in the daily work of the Commission are specially mentioned to convey some idea of the problems of assessment of claims from bandit infested areas. Almost every Assessor and Investigator working in the field had to run great risks. The Commission are proud of their record in handling claims from these dangerous areas.

Assessment in urban areas presented relatively few difficulties; assessment in rural areas was a special problem in itself. Apart from the East Coast, which I shall give an account of later, the method generally adopted was to send out simple questionnaires printed in a language and script that could be understood in the particular area. These were distributed generally from the District Office to claimants. On an appointed date, notified well beforehand, the Assessor arrived in the area and set up an office, generally in the local court. Claimants came forward with their questionnaires and were asked further questions by the Assessor in front of their respective Penghulu, and their neighbours in the Kampong. By this means true statements were evoked and the assessment could be completed.

The War Damage legislation gives Assessors power to take evidence on oath where necessary. Assessors did not have to resort to sworn statements to obtain the truth. It was found sufficient to ask the necessary questions from claimant surrounded by a public composed of his own Headman and neighbours. Most valuable assistance was given by District Officers to these efforts at assessment in rural areas.

One of the conditions the Commission had to create was confidence. Rural people had sent in claims which were quite genuine, but when they were asked to sign a paper giving a few details necessary to the assessment, they took fright. Many of them did not really believe they would ever get compensation, and it was remarkable what a change took place in the attitude of claimants from rural districts when one or two of their members in the district received a War Damage payment. He showed his War Damage cheque to the Kampong as though it were a miracle. From that stage the Commission's work was perceptibly easier.

While it is necessary for the Assessor to visit the location of loss in respect of most claims, an exception can usually be made in respect of Private Chattels, especially if the Assessor, as is usually the case, knows his



district intimately. Private Chattels are an exception in that it is impossible to get detailed proof that claimant owned, at the time of actual loss, the chattels for which he claims; and secondly, that the Chattels for which he claims were lost by an act that can be classed as War Damage. Assessors had to decide both question on a balance of probabilities, and to do so it was necessary that they should have an intimate knowledge of the history of the Occupation in each portion of their assessing district. In one street of a town looting may have been general; in an adjacent street there may have been no looting at all. The Japanese may have picked on a certain person and taken from him all his property while leaving his neighbour intact. In Malacca organisations were actually set up to counter looting, and large districts were saved from looting by these organisations. On the other hand large quantities of goods were removed from shops in certain towns and carted into the country where they were placed in private houses until the first fury of the Japanese attack had passed by. They were then returned to the shop and trading continued with the permission of the Japanese. It will thus be seen how complicated was the work of assessing Private Chattels and small Business claims, and how much detail an Assessor had to know concerning the events under the Occupation.

It was generally sufficient in respect of the larger Private Chattel claims to call the claimant to the Assessor's office and question him about his claim after he had filled up the Questionnaire giving details of what he had lost. The Commission could assume that where necessaries were claimed they would already have been replaced and so the primary object of the Scheme, which is restoration, had been carried out.

The necessity to visit the location of loss or damage is illustrated vividly by an incident in Singapore where a claim was received for two houses stated to have been demolished. A visit to the site of the damage revealed two demolished houses, but a closer enquiry also revealed that demolition had taken place long before the Japanese invaded Malaya.

There were many claims for rubber cut out along the West Coast, especially in the coastal area south of Malacca. It was, however, discovered that a good deal of the rubber cut out was voluntarily done by the small-holders to which it belonged for the purpose of obtaining firewood for the salt pans which they operated along the coast. In fact a very strict check had to be made on all cut out areas, and the Commission insisted that claims for cut out areas of any considerable size should be accompanied by a Surveyor's Report. Another difficulty faced by the Assessor was that ownership of the property lost or damaged, at the date of loss or damage, could not be established. There were cases where damaged property had been acquired subsequent to the damage, and a claim was made by the person acquiring the property. This, of course, could not be allowed unless the claim rights had been assigned to the person making the claim, with the approval of the Commission. Also claims were received from persons who had a proprietary interest in certain damaged property but whose interest did not extend to the whole of the property. An enormous amount of investigation had to be done by the Commission's Assessors in the books kept in Land Offices, in order to establish proprietary rights before claims were assessed. In many cases these books were not up to date at the time of loss or damage, and so the problem was still further complicated.

A substantial claim was received from a bicycle shop. Investigation showed that the shop, which still sold large numbers of bicycles, had been in business prior to the war, and had been entirely looted by the Japanese. It was then discovered that the occupant in 1947 who submitted the claim was not the occupant in 1941 who had suffered the loss, though the names bore a certain resemblance. Further enquiry brought to light the claim from

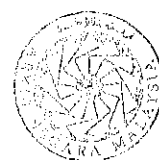


the 1941 occupant of the shop who was the person really entitled to submit a claim. This example is an answer to those who hold the opinion that less assessing and greater speed would be a public advantage. No doubt greater speed is desirable, though it is suggested that the public has little cause to complain of the speed at which claims have been handled, but less investigation means that those not entitled would benefit to the detriment of genuine claimants.

In an attempt to establish confidence in the Commission on the East Coast a film was prepared by the Malayan Film Unit showing the Assessor sitting at a table in the open and various claimants coming forward with their papers. The Assessor asks some questions and examines the papers; he then stamps the documents and informs the claimant that payment of the first dividend will follow almost at once. An amusing incident is added showing one of the claimants arriving too late to get his papers examined by the Assessor, who has to catch a Ferry Boat back to Headquarters. The late claimant is assured that if he will attend the next sitting of the Assessor, and in good time, his claim will go through. This film was shown up and down the East Coast and created a most favourable impression. Those who saw it realised that the War Damage Commission were in earnest, and that, if they were able to prove their claims, they would get their money without further trouble.

One of the evils with which the Commission had to contend with on the East Coast was unlicensed Petition Writers. Petition Writers can be most helpful, and indeed they are necessary in many cases; but on the East Coast the information the Commission have is that they abused their positions frequently. They encouraged people to send in claims whether a loss had been incurred or not. By paying a small fee a person could have a claim sent in including all sorts of lost property which the claimant never possessed and which, of course, he was unable to prove when confronted by the Assessor. Petition Writers went even further than this: they sent in claims in the names of certain persons with an address care of themselves. When the Commission came to investigate these claims, the claimant could not be found. The only address the Commission had was that of the Petition Writer, who had disappeared when he knew that trouble was brewing. The Commission investigated these claims as far as possible in the effort to establish whether there was any real loss by a real claimant, but a large number had to be classified as untraceable.

Another difficulty experienced throughout Malaya, but particularly on the East Coast, was in connection with Hire Purchase Agreements on vehicles. A very large number of vehicles and sewing machines on the East Coast were purchased on a Hire Purchase system. The Hirer had paid, in many cases, substantial sums to the vendor who was the registered owner, and when the vehicle was lost the Hirer claimed against the Commission for the vehicle. Hire Purchase Agreements were so numerous that every case of claim in respect of a vehicle or a sewing machine had to be challenged in order to ascertain whether the purchase had been made under a Hire Purchase Agreement and what amount was still outstanding. The Vendors generally were unable to help, having lost their records. When the Commission had established that a Hire Purchase Agreement existed at the date of loss or damage of the vehicle or sewing machine, and that a balance was still owing to the Vendor, the Commission requested the claimant to get in touch with the Vendor and to agree with him the amount outstanding. Claimant and Vendor were also asked to agree on the division of the Award. Strictly speaking in law the Award belonged to the Vendor, he being the registered owner of the vehicle; but as the purchaser had paid





a substantial sum, the Commission felt that, in equity, this should be recognised and given full weight in the settlement. The system of compromise followed by the Commission in all cases is thought to have been the correct solution of this complicated problem.

There were cases where a Company notified the Commission that a Hire Purchase Agreement was outstanding, but where the claimant (Hirer) denied the charge, or where the Personal Representative of a deceased claimant, having no knowledge of any Hire Purchase Agreement, was not satisfied that one existed. Such cases required very close investigation by the Commission, and the Commission insisted upon the fullest proof where a difference of opinion of this nature was revealed by the Vendor and Purchaser.

The Commission endeavoured to meet the wishes of hiring companies by sending a copy of the Award notice, not only to claimant but to the hiring company, where there was an amount outstanding under the Hire Purchase Agreement. It was hoped that this action would prevent misunderstanding between Vendor, Purchaser and Commission. Some companies, most of whose business was hire purchase, sent the Commission very large claims in respect of outstanding amounts. These, of course, had to be rejected under Section 2 of the Ordinances as book debts; and, as the hiring company had generally no evidence to produce that the vehicle or machine in respect of which the Hire Purchase Agreement existed had been lost by an act of War Damage, no further action could be taken. Thus the anomaly had to continue whereby the claim had to be submitted by the purchaser who in law was not the owner, but who in equity had a claim in respect of the property lost.



## CHAPTER XII

## PAYMENTS BY THE JAPANESE AND OTHER PROBLEMS

The Japanese generally paid for what they commandeered after the first excitement of the battle of Malaya had subsided. The steady decline, however, in the purchasing power of the Malayan dollar, or rather the Banana currency introduced by the Japanese, meant that the owner of the property commandeered did not, as a rule, obtain full value. On the East Coast the Japanese were in the habit of paying for padi, although there is no conclusive evidence to show that each and every planter was in fact paid. Many smallholders strongly deny having received payment. Investigation, however, showed that although claimant on first being questioned usually denied having received payment from the Japanese, he nevertheless did receive payment either in money or in kind.

Penghulus on the East Coast state that payment was made for padi collected by the Japanese, although the sales were made under duress. In some cases payment may not have reached the right person, because the Japanese did not trouble to do more than pay some person in the district who acted as their Agent. Whether this person passed on the money to the planter who lost the padi is a different matter.

The whole subject was so complicated that it was not possible for the Commission to make distinctions as to who was or was not paid. The Commission knew that the general practice of the Japanese was to pay for this padi and they, therefore, adopted as a rule that such payments were actually made. Similarly with other items throughout the country, unless there was very strong evidence that no payment was made, the Commission assumed that payment had been made.

There remains the question as to whether or not payment was adequate. There is no doubt that payment, especially in the last years of the occupation, was far from adequate in view of the drastic decline in the purchasing power of the currency; but there was no adequate means of determining how much in real value payment by the Japanese fell short of what should have been paid, and so the Commission was not able to approve any compensation in respect of inadequate payments by the Japanese.

A further complication arose out of the provisions of the Title to Land and Dealings in Land (Occupation) Ordinance, 1949 (Federation Ordinance 39/40 of 1949), and the Dealings in Land (occupation period) Ordinance, 1949 (Singapore Ordinance 37 of 1949). These Ordinances made provision for the re-registration into the name of the previous owner of land acquired by the Japanese during the Occupation, provided that written application was made by the previous owner to Government within a specified time and subject to certain conditions, one of which was the repayment to Government of the amount received from the Japanese, valued in accordance with the Debtor and Creditors Ordinance. Because of the provision of these Ordinances, the Commission made a rule that where the claimant had had the land re-registered in his name, having exercised the option under the Ordinance, the claim would be allowed both in respect of damage occurring before and after the acquisition by the Japanese. An Outright Award or a Restoration Award would be granted, whichever was applicable. Strict evidence would, however, be required to support the payment of compensation for any damage which occurred after the acquisition. The claimant's liability to repay the compensation received from the Japanese to Government would be assumed to have been discharged by the fact of re-registration.



Where the land had not been re-registered in the claimant's name, an Outright Award would be granted in respect of any War Damage that was proved to have taken place before the acquisition of the land by the Japanese, but no compensation would be granted for damage that occurred after the acquisition by the Japanese.

The Commission also decided not to admit any claim in respect of removal of temporary buildings where the claimant had received some compensation from the Japanese. This rule was extended also to claims for temporary crops or for livestock on the same holding.

It was decided that improvements made by the Japanese on the land acquired by them would be taken into consideration when assessments were made.

In applying these rules it became necessary to establish the proportions of any Japanese payments which were made. The whole of a claim was not affected where the Japanese paid compensation in respect of any one item, because it was only this one item that was subject to the various rulings made; the other items were assessed without regard to these rules.

The whole subject of Japanese payments was extremely complicated, and the Commission had to exercise great discretion in making any award where there was proof, or even suspicion, that the Japanese had made any payments.

#### ENEMY ALIENS

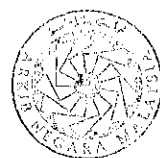
The Memorandum of Proposals stated that it was not intended that there should be any distinction made in considering claims for compensation on the grounds of the nationality of the owner of the property other than owners who are, or were, enemy aliens.

This appears at first sight to be a straightforward decision that would be easy in application. It has, however, proved difficult.

A number of persons, who can without dubiety be classed as enemy aliens, have submitted claims to the Commission, and have pleaded for exceptional treatment on the grounds of exceptional services rendered to the British during the 1941/42 emergency and later Occupation. There is no doubt that some did render very exceptional services. In one case a claimant's son served with the R.A.F. and his daughters served in a Military hospital in England. Some aliens were sent to Australia in 1941 and there served with the Australian Forces.

A number of persons whom the Commission classed as "Enemy Aliens" claim that, at the date of Japanese landing, they were actually stateless persons, their original country having decreed that, as they were absent for a number of years, they were deprived of their nationality. To what extent these stateless persons were enemy aliens at heart it is impossible for the Commission to determine; nor can any guess be made what the attitude of enemy aliens who plead for consideration would have been if the enemy had proved victorious.

The Commission feel that they should bear strongly in mind, when dealing with enemy alien claims, that a large proportion of the funds from which these claims are paid comes from the pocket of the British Taxpayer, and that even though the decision to reject these claims in many cases will prove harsh, it is nevertheless sternly necessary that no portion of these funds should go to persons who were not British nationals, or the nationals of friendly powers, at the time when such stupendous efforts had to be made to secure victory.



### SQUATTER CLAIMS

These presented many novel features and had to be dealt with in a special manner. Most so called squatters possessed what is called a Temporary Occupation Licence (T.O.L). These T.O.L. prohibited the construction of permanent buildings or the planting of permanent crops and rubber, coconut, fruit trees, etc. Nevertheless, such licencees did erect permanent buildings and plant permanent crops, and have submitted War Damage claims for such property. The Commission were thus presented with a problem that had no legal justification, but which nevertheless had to be dealt with equitably. The following decisions were made by the Commission on this class of claim.

- (a) Loss or damage to temporary buildings and short term crops on land which was held under T.O.L. or on which the claimant was a squatter, are in all cases eligible for War Damage Compensation.
- (b) If the claim includes permanent buildings or permanent crops, rubber trees, etc., the Assessor endeavours to obtain evidence that the claimant had good reason to believe that he had permission to build permanent buildings, or to plant permanent crops. Such a reason would be where the T.O.L. was given pending the issue of a substantive grant or lease. In many such cases the Land Office records show that the claimant had made written application for a Grant or Lease. Where the evidence is such that it is reasonable to presume that the claimant had permission to erect a permanent building, or to plant trees and permanent crops, then such claims are eligible for War Damage compensation.
- (c) Where there was no evidence to show that the erection of permanent buildings, or the planting of trees and permanent crops was permitted by Government, then such claims are to be recommended for rejection.
- (d) The investigation of claims for property on land must establish the Title which the claimant held. In some cases it may be found that a Lease had lapsed and a T.O.L. had been issued until, for example, permanent houses were demolished. In such cases compensation would not, of course, be payable.

These general rules were applied at the discretion of Assessment Boards, taking into consideration the merits of each individual case.

### RESTORATION CARRIED OUT DURING JAPANESE OCCUPATION

The Commission considered the question whether restoration carried out during the occupation period should qualify for War Damage compensation, and decided to disregard such restoration when assessing all types of claims; that is to say, the Commission gave no War Damage compensation in respect of claims for property lost or damaged and restored during the occupation.

This decision was, however, subject to the proviso that if it was considered in any particular case that the ruling caused hardship, then the claim was referred to a Commission meeting for special consideration.

The main reason for this decision was the fact that repairs for damage were paid for in Japanese currency which, after a short time, began to depreciate rapidly from the level of the previous Malayan currency. It was represented to the Commission that depreciation did not set in until after the end of 1942, and a qualification of this decision was, therefore, introduced



to the effect that where a claimant restored his property in 1942, he could be granted an Outright Award based on June, 1941 cost. Where, however, it was found that the restoration of the property had been of assistance to the Japanese war effort, the claim was rejected.

The Commission also considered whether War Damage compensation should be paid for loss of stocks acquired by claimant in the occupation period either for a business started or for a business purchased, during that period. It was decided that claims in respect of a business started or acquired after the 15th February, 1942, should be rejected.

In making this decision the Commission took into consideration the following:

- (a) The Philippines Islands War Damage Scheme specifically excluded compensation for property lost or damaged which was acquired after the 7th December, 1941.
- (b) A claimant who elected to purchase a business, or to commence a new business, during the Japanese occupation, did so at his own risk, being aware of the conditions prevailing.
- (c) The importation of goods for sale was severely restricted during the Japanese occupation, and stocks could usually have been acquired only by purchase from other traders. It is probable that in such cases both the Vendor and the Purchaser have claimed.
- (d) The War Damage Scheme was primarily introduced to compensate claimants for property lost or damaged as a direct consequence of the British evacuation of Malaya.

The Commission's decision meant that a Vendor who owned a business that existed prior to the Japanese occupation, was eligible for an Award in respect of War Damage suffered before the business was sold; but the Purchaser who acquired the business during the occupation was not entitled to an Award even though he suffered war damage. When assessing claims from such Vendors, the Commission required reasonable proof that the War Damage did occur before the business was transferred.

Claims in respect of private property acquired during the Japanese occupation were treated on their individual merits and were not automatically rejected.

This decision applied also to all kinds of businesses including Rubber Estates, or smallholdings, purchased after the occupation by the enemy, or started during the Japanese occupation.

#### **GOODS CONSIGNED TO MALAYA IN 1941**

Exporters in the United Kingdom and elsewhere submitted claims in respect of goods consigned to Malaya towards the end of 1941 for which payment had not been received from the consignees. In some cases the claim had been made by a Finance Company who discounted the Bill of Exchange covering the goods concerned. The Commission have records to show, in most cases, whether any named ship arrived in Malaya at the end of 1941, or the beginning of 1942. If it is found that the ship concerned arrived in Malaya, and there is no question of transhipment of the goods concerned, then it is accepted that the goods were unloaded and, if not received by the consignee, subsequently lost through War Damage in Malaya. If transhipment is involved, then further evidence is required to determine whether the goods were subsequently shipped to another country. If the date of arrival in Malaya of the ship concerned was sufficiently early for it to be reasonably probable that the goods were transhipped, then the claim is denied on the grounds that the loss probably did not occur in Malaya.



All claims by Finance Companies, Discount Houses and Banks in respect of goods consigned to Malaya towards the end of 1941 and the beginning of 1942 were rejected because such claimants were only concerned with a debt, and the War Damage Ordinances rule out book debts. This, however, did not apply where such institutions were claiming merely as agents for the consignor, and stated specifically that this was so in the claim form.

Claims by the consignor were rejected if the investigation showed that any one of the following was applicable:

- (a) On the balance of probabilities the goods were not considered to have reached, or been retained in Malaya.
- (b) The goods were actually received by the consignees. If this was the case the right to claim was vested in the consignees, provided that they could show that the goods were subsequently lost through War Damage.
- (c) If a Bill of Exchange was accepted by the consignees, or a Bankers Letter of indemnity arranged (whether or not payment had been made). The grounds for rejection in this case were that a debt was involved for which War Damage compensation could not be paid in view of the terms of Section 2 of the War Damage Ordinances, 1949. The remedy of the consignors in such cases might be to claim for the debt from the consignees on the basis of the accepted Bill of Exchange. Payment by the consignees to the Japanese Liquidator Custodian does not alter the position as far as the Commission are concerned.

If the claim from the consignors was not rejected under the preceding paragraph, then an Outright Award was made in favour of the consignors within the terms of the War Damage Scheme. The prices claimed were reduced to June, 1941 level, and all insurance charges deleted. Where any payment had been made by the Export Credits Guarantee Department, etc., the amount of such payment was deducted from the assessment by the Assessor, and the award recommended was the difference between the assessed loss and the payment already received.



CHAPTER XIII  
CLUB CLAIMS

Club claims presented certain features peculiar to themselves and required special treatment.

It was essential to establish that either :

- (a) The Club was still in existence. This was done by the Assessor asking to see the Certificate of Registration, or the Register of Societies Certificate given by the Club to show that registration had been applied for. The Assessor had to ascertain who were the Committee Members, and whether such Members were available to substantiate the claim and to receive such payments as might be made by War Damage; or
- (b) if the Club was not, at the time of assessment, in existence as a Registered Club, the Commission had to ascertain whether there was some responsible person to whom war damage payments could be made and who was prepared to undertake, on receipt of such payments, to resurrect the Club in such a manner as to provide necessary amenities to the community; or
- (c) if the Club was no longer in existence, and so far as could be discovered there was no intention to restore it.

Where (a) was a fact there was no difficulty: where (b) was the fact, a full report of the position and the person, or persons, concerned with the proposed restoration of the Club's activities had to be prepared. A decision had to be made whether the Club could be regarded as a reasonable necessity in the district. In making this decision the membership prior to the war and the amenities offered were taken into account.

Where (c) was the case, a report of the fact was prepared. Generally an Award was not made, but the making of an Award would be considered if the Commission could be assured of an equitable distribution of payments under the Award among the Members.

In granting a Restoration Award to the Club the Commission had to form an opinion concerning the amenities that would be reasonable, considering the Club's membership, the nature of the Club and the district in which it was located.

There were cases where a Club was offering different amenities as compared with pre-war. While the Commission did not wish to challenge the opinions of the Committee, they were extremely wary of financing any change of policy.

Many Clubs proposed considerable expansion after the war, which meant a good deal of betterment work associated with the ordinary restoration of War Damage. The Commission had to distinguish strictly between restoration of War Damage and betterment.

Many claims recreation. Such c the process of natu or planting crops (

Where the la: recreation, the Cor labour costs. This been completed, t would be brought t claimant could not be brought back t the conclusion that was justified.



Many claims were received in respect of damage to land used for recreation. Such damage had to be distinguished from normal neglect and the process of nature. Usually it consisted of digging trenches, making roads, or planting crops (such as tapioca) on the land.

Where the land had been brought back to a condition suitable for recreation, the Commission made an Outright Award based on June, 1941 labour costs. This was applied where the work of restoration had not yet been completed, but where the Commission were satisfied that the land would be brought back at an early date to its pre-war condition. If, however, claimant could not give an assurance to the Commission that the land would be brought back to its pre-war condition, the Commission naturally drew the conclusion that work on the land was not necessary and that no Award was justified.





## CHAPTER XIV

### KELONGS AND BOATS

As one approaches the coast of Malaya one cannot fail to notice the large number of fish traps, or kelongs, built in some cases far out to sea. A number of War Damage claims were received in respect of these kelongs.

There are two types of trap in use:

- (a) Deep sea kelongs which are placed well out to sea at cross currents; and
- (b) Shallow kelongs which are placed usually to leeward of the land and are normally near to the Coast.

Deep sea kelongs last two seasons' fishing only, and are repaired or replaced yearly to bring them back into service. Similarly, with shallow kelongs, though these last much longer than deep sea kelongs.

The Japanese did not destroy or damage kelongs. So far as is known there is only one case where the Japanese removed a kelong, and that was because of mines.

On the East Coast the season's fishing would have finished before the Japanese landing, so that any damage to kelongs alleged to have been due to landing operations could be treated as probably incorrect. There were few landings on the West Coast, and none from the open sea at Singapore.

It was, therefore, decided that damage claimed in respect of kelongs should generally be disallowed. Such damage was in all probability due to normal sea action and weather, and did not come within the definition of War Damage.

### BOATS

Boats presented a special problem to the Commission. The first distinction that had to be made was whether a boat was used for business or for pleasure. If a boat was used for pleasure, it generally came under the heading of Sports Equipment and qualified only for an Outright Award with a low limit; where a boat was used for business, a further definition was necessary in order to establish its economic importance. Thus a boat used for fishing for bait, or small inshore fish, would qualify only for an Outright Award; but where a boat was used for fishing in a fleet of not less than three, or where it used nets (other than jala) and other complicated fishing gear, a Restoration Award would probably be given.

Some boats, even relatively small boats such as Koleh, were used generally for the transport of firewood, passengers, agricultural produce, etc. Where this was clearly established, the claim probably qualified for a Restoration Award. In all cases the Assessor considered the use that was made of the lost or damaged boat, and the community to which claimant belonged, when making out his report concerning the claim for loss or damage to the boat.

Another point that had to be established, and which was most important, was ownership. All boats over 16 feet in length should have been licenced. In many cases the licence was not available, but Assessors were able to confirm issue of the licence from the records that had survived the occupation in Government offices. There were other cases where the licence could not be produced and where the records in Government offices were not available. Here the Commission had to fall back on the confirmation by a person of substance, or the Penghulu of the district.

Another difficulty was to establish that the circumstances of loss or damage could be brought within the definition of War Damage as set out in the legislation. Many claims were received from owners of boats sunk by accident during the occupation, and even from persons who sold their



boats for various reasons during the occupation. The Assessor had to be scrupulous in confirming that the loss or damage to every boat was a loss or damage that could be defined as War Damage.

Generally speaking restoration was carried out on boats from the claimant's own resources. Especially in fishing communities the claimant had either to give up his livelihood or replace his boat, and so it was necessary to establish that a claim for the restored boat was in fact a claim for a boat that had been lost in circumstances of War Damage, and that the restoration was justified economically from the point of view of the community, quite apart from the owner's own interest.

In computing Awards to boats, depreciation was applied; different types of boat were given a different life in accordance with what was known of the construction of the type and the use to which it was put. For example, tongkongs are usually unsheathed and are used for rough work in loading and unloading ships' cargoes. They were given a life corresponding to these circumstances. Boats of a higher tonnage qualified to carry passengers and so subject to annual inspection before issue of the passenger licence were given a higher life, on the assumption that it was necessary for the owner to keep them up to a relatively high standard of efficiency.

The method of propelling the boat was also a factor influencing its life span quite apart from the other questions of value of gear used. Whether the boat had an outboard motor, or was propelled by sail or by internal machinery, were all points that had to be taken into account when making the assessments.

Sampans and Kolehs not exceeding 16 feet in length, and so unlicensed, were classed together. Where they exceeded 16 feet in length, and so were licensed, they fell into a different class and were computed for Outright Awards and Restoration Awards at so much per foot. Tongkongs or wooden cargo lighters for use within harbour limits were assessed in accordance with tonnage. The same applied to Twakows, which for purposes of War Damage are heavier boats, built with hatches and capable of proceeding to the open sea. Steel barges; outboard motor boats; inboard motor boats; boats used for pleasure at Yacht Clubs; racing Kolehs; Kolehs used for carrying barang or food; petrol and steam launches used for private purposes, petrol and steam launches used for commercial purposes; were all classes of water craft that had to be assessed in a different manner.

It will be appreciated that water craft are of great importance to the local population. The Commission received some claims in respect of Malay house boats. These boats are usually moored to the banks of rivers, but they are sufficiently well constructed to permit their being moved up or down a river from time to time; and, especially on the East Coast, they sometimes constitute an important part of village life.

In Malacca Harbour in early January, when the Japanese were approaching that town, there was a systematic and considerable destruction of harbour boats such as tongkongs. This applied also to a lesser extent at Muar. There was some destruction at Singapore, but relatively not so much as at smaller ports up the coast. Many small craft were moved southwards until they came to Singapore where they were eventually captured by the Japanese.

Another problem that presented considerable difficulty to the Commission was the case of larger boats that had been sunk outside Malayan waters during the battle of Malaya. Some ships under charter from the Malayan Governments were sunk in action in Indonesian waters; there were some that sunk themselves in Sourabaya Harbour when capture appeared imminent. Generally it was possible for the Commission to deny liability because the loss occurred outside Malayan waters. Also vessels under charter to Government had to be insured against War Risks. This is the reason why the Commission received no claims for requisitioned ships.



## CHAPTER XV

## VEHICLES, FIREARMS AND SEWING MACHINES

It was natural that vehicles should form a most important item in War Damage claims, and it was inevitable that they should have been prominent in the requisitions made in 1941/42 under the Emergency and the Defence Regulations. This meant that some thousands of Vehicle claims were settled by the Joint Claims Officer as legal liability, and several thousands more came to be settled in War Damage. There was also a substantial number of vehicles on which hiring charges were paid under the Emergency and the Defence Regulations, and the ultimate capital loss of which fell to be settled under the War Damage Scheme.

In anticipation of the Japanese landing in 1941 a large number of vehicles of all kinds had been requisitioned by Government for work in connection with defence: this was extended when the landing took place to a wholesale requisitioning of transport for the use of the Armed Forces. There was, in addition, requisitioning for Government Services, and requisitioning for denial to the enemy.

By arrangement, all additional vehicles required for the Armed Forces, on the landing of the Japanese, were requisitioned by the Chairman of the Transport Board, who was a Competent Authority under the Emergency Regulations in the Federated and Unfederated Malay States. His office was in Kuala Lumpur, and so other Competent Authorities were appointed in the different States working, in respect of this requisitioning, under the Chairman, Transport Board. In Penang, Malacca and Singapore, the Registrar of Vehicles was Competent Authority under the Defence Regulations.

What was not generally understood then, and later, was that requisitioning was hiring; and in the event of any vehicle requisitioned in the usual manner being returned to its owner, all the owner could claim was hiring charges during the requisition period. Where a vehicle was not returned, it was generally treated as a loss under War Damage unless some factors emerged from the investigation which suggested that the loss did not fall into the definition of War Damage.

There was much misunderstanding over requisitioning of vehicles. For example, members of the Selangor Volunteer Force used their cars for their volunteer duties, and when their unit moved southwards their cars came along. These cars were used with the unit in Singapore until it was disbanded about mid-January. The cars were lost or abandoned in the usual way when capitulation came, but the owners believed that the use of their cars by the Volunteer unit was a form of requisitioning. Actually that was not so, because the cars had not been requisitioned by a Competent Authority, and were generally available to the owners after the disbanding of the unit in mid-January, 1942. Hire was paid for the use of the cars up to mid-January and the cars then, if lost in circumstances entitling War Damage, would rank for a War Damage award.

Such vehicles as were requisitioned by the Competent Authorities under the Emergency and the Defence Regulations for the Armed Forces, were claimed against the Malayan Governments, and were settled by them from funds provided by the Army Claims Commission. This procedure followed the arrangement where the Civil Government had carried out the requisitioning under the Regulations.



The Assessment of vehicles in War Damage was a separate problem, because they fell generally into one or other of two claim categories: (a) Private Chattels and (b) Other Claims. Where a car was used for Private purposes, which was the usual use of a car, the assessment was made under Private Chattels. Where a car, or other vehicle, was used for commercial purposes, as for example a trade van, or a passenger bus, or a taxi, the assessment was in Other Claims.

Claims for vehicles require to be supported by some documents proving ownership, type and age. Where claimant remained at his former address after the Occupation began, loss by War Damage had to be shown. This involved a very considerable amount of investigation, consulting of Registrar of Vehicles' records, cross references with the records of the Joint Claims Officer who had paid for many thousands of vehicles, enquiries on what terms owners held their vehicles (Hire Purchase or Outright Purchase), etc. The work of the Commission on vehicles has been protracted and difficult.

An obvious problem was how to assess the value of vehicles lost in War Damage. This meant determining the value at the time of damage or loss. It was known that the price of vehicles had increased substantially since the outbreak of war in Europe in 1939, and there were some weeks in 1941 when the prices became unreasonable. On the other hand, as the Japanese advanced down the Peninsula, the prices of cars dropped to almost nothing. During the last days in February, 1942, when Singapore was crowded with abandoned cars, there was no market. It was obvious that the Commission should ignore these fluctuations and seek a reasonably stable price depending on the age, make, and horse power of the vehicle.

After some discussion, the Commission decided to adopt the formula for determining the prices of vehicles purchased by the Transport Board for the Armed Forces in 1941. This formula is to take the price of the car when new and depreciate it by the reducing system of depreciation as follows:

First year	...	...	...	...	...	30 per cent.
Second year	...	...	...	...	...	25 ..
Third year	...	...	...	...	...	20 ..
Fourth year	...	...	...	...	...	15 ..
Fifth and subsequent years	...	...	...	...	...	5 ..

On the whole this formula has worked reasonably well. It is perhaps harsh on an owner who has looked after his vehicle particularly well; it is too favourable to vehicles doing particularly hard work. It will be agreed, however, that such distinctions could not be drawn, or checked up, by the Commission, and that a uniformly applied formula was the only practical solution.

In assessing vehicles as Private Chattels only an Outright Award was given (there are no Restoration Awards in Private Chattels). In assessing vehicles under Other Claims, it was possible, and usual, to allow Restoration Awards. For example, bus companies were undertakings of economic value to the country, and it was important that they should be restored. Indeed the Commission treated all public transport facilities as of the greatest importance, and did all they could, with the funds at their disposal, to see that these facilities were brought back into existence.

### FIREARMS AND SEWING MACHINES

It might at first sight appear that Firearms was an item for which compensation should not be paid, and for which claimants should be given no encouragement to replace. During the emergency of 1941/42 an order was issued instructing all those possessing arms and ammunition to hand



them over to the nearest Police station. Many carried out this order, so much so that the quantity of obsolete arms in Police stations when the Japanese invaded Malaya was an embarrassment. There were many who, for various reasons, did not obey the order.

Normally where a person claiming for a shot-gun could produce the Police receipt for the gun, he was paid by the Joint Claims Officer under the Emergency Compensation Regulations. Where he could not produce such receipt, he had to depend on War Damage.

The necessity for shot-guns in rural areas is unquestioned. A small holder has to protect his trees against wild animals, and a padi planter must protect his crop from the birds. It was a fact that there was a large number of shot-guns in use in Malaya prior to the Japanese invasion, and these shot-guns were usually necessities. There were naturally some shot-guns kept for sporting purposes that could not be classed as necessities.

The Commission accepted the necessity for these firearms, but they did not attempt to compensate at anything like the amounts claimed, nor at a figure corresponding with post-war prices. The pre-war prices of various types of (a) single barrel and (b) double-barrel shot-gun were averaged and a figure for each accepted. These prices were applied to all such claims unless there were factors sufficiently abnormal to require special treatment.

The Commission accepted also the presence in Malaya pre-war of a very large number of sewing machines, and the necessity for this popular article. In every Malay Kampong the noise of sewing machines busily stitching up man's necessity or woman's vanity is a common experience. Most of these sewing machines were bought on hire purchase, and on the date of the entry of the Japanese many had not yet been fully paid.

To prove that a sewing machine was lost through an act of War Damage is difficult; indeed such proof as the burning of a house, or the complete looting of a house by the Japanese, or by a man's neighbours in his absence, had to be accepted as probable. There is no doubt that many took the opportunity of the invasion to default on their payments, and many claims submitted to the Commission were not genuine.

The Commission adopted the same procedure for sewing machines as for firearms. A pre-war price was computed and was applied in all cases where there was sufficient proof of ownership, and of loss through an act of War Damage. In all cases enquiry was made whether the machine was bought on hire purchase, and what the position of the account with the Hiring Company was.



## CHAPTER XVI

**EXTENDED FAR EASTERN PRIVATE CHATTEL SCHEME AND INITIAL PAYMENTS**

His Majesty's Government in 1949 decided to make limited ex gratia payments to United Kingdom British Subjects in respect of losses of furniture and other personal goods in British and former British territories in the Far East as a result of the Japanese Occupation.

The Scheme applied to United Kingdom British Subjects who returned to the United Kingdom from Malaya (and other Far Eastern Colonies and Protectorates). Such persons could apply for grants under the Scheme, provided that, prior to the Japanese invasion, they were resident in Malaya, and on their return to the United Kingdom set up a home permanently there.

The Scheme did not cover losses of cash, securities, profit or generally consequential loss.

The limits of compensation were:

Householder unmarried	...	...	...	...	...	£300
Householder married	...	...	...	...	...	450
Every child under 16 on 8th December, 1941	...	...	...	...	...	35
Any other person over 16 years of age	...	...	...	...	...	75

The particularly important proviso attached to this Scheme was that any grant awarded would be reduced by the amount of any compensation received in respect of losses from the Malayan Governments.

This meant that very close relations had to be maintained between the Commission and the Board of Trade. When applications for grants were received by the Board of Trade, they were referred to the Commission for particulars of any claim lodged under the War Damage Scheme. In addition, the Commission gave the Board of Trade a forecast of what the probable assessment of the War Damage claim would be, and a list of all payments made to claimant by Agents of the Malayan Governments, Colonial Relations Office and the Services. By this means a very close control was established.

As assessments were made and payments of dividends began, the problem became more complicated. Before the Board of Trade could make payment of a grant, it had to know what award and what payments thereunder had been made under the War Damage Scheme. Similarly it informed the Commission of all grants paid, and these were deducted from payments due under the Commission's Award.

There was no financial benefit to claimants under the War Damage Scheme who received grants under the Extended Far Eastern Private Chattel Scheme, except where their claims against the Commission were relatively low. There was, of course, the benefit that payment of the grant was made in one sum, and so claimant was not kept waiting as long as he had to wait under the War Damage Scheme. But many claimants who received the United Kingdom grants believed that these would be in addition to any benefit they might obtain from the War Damage Scheme. That was never intended. The Commission were strict in making the necessary deductions.

This Far Eastern Extended Private Chattel Scheme has now been closed, but its effects will, as described later in the chapter on Private Chattels, be felt by the Commission up to the end of its life.



### THE INITIAL PAYMENT OF \$350

The first task to which the new Commission applied its energies was to make payment of the initial \$350. This might at first appear simple, but it required a strict and comprehensive index system. Every claim file had to be examined and, where two claims had been submitted for the same property, an enquiry started. Also many persons submitted several claims for different types of property. In effect, all the claims had to be registered under an index system that would detect duplications of claim, or duplications of payment where more than one claim had been lodged.

There was a general idea that the Commission could safely make payment of this \$350 in respect of every claim lodged. This was found to be impossible because there was a large number of claims for amounts running into thousands of dollars which, on a brief screening, showed that the award was unlikely to reach even \$350. Thus when a competent index control was established, a system of screening was introduced and payments of the initial sum were made rapidly.

Where it was clear that the claim was unlikely to assess for as much as \$350, the Commission approved a lesser initial payment.

These initial payments were much appreciated by claimants. Apart from the fact that \$350 was a useful sum to poor claimants, there was engendered a confidence in the Commission on the sight of its cheques by the public.

It may appear strange that a lack of confidence should exist; but that was the position until considerable progress had been made. One Chinese gentleman wrote from the East Coast in response to the Commission's general invitation to submit a claim. "Why should I send you a claim? I am going to lie low and watch you fellows."



**CHAPTER XVII**  
**LEGAL PROBLEMS**

**CLAIMS FROM HUSBAND AND WIFE**

Some claims were submitted by the husband and some by the wife. Where both husband and wife were alive and living in harmony together, the claim, whether submitted by one or the other, was regarded as a joint claim and was treated as such. The claim unit, for Private Chattels, was the family. Where the children were minors, and especially where they were not wage earners, they were regarded as participants in the joint claim. Where children, though living with their parents, were wage earners, they had a right to submit claims of their own and often did, but they also could elect to be assessed jointly.

Nevertheless the Commission always bore in mind the fact that the property, unless specifically arranged, belonged to the husband. Where a couple lived in harmony together, this fact gave rise to no complications; where a separation or divorce had taken place, there were many difficulties. Where husband and wife living in harmony together submitted separate claims, the claims were combined and assessed as a joint claim.

Where a husband and wife were alive at the time of damage, but were not living in amity as, for example, where they maintained separate establishments, it was generally necessary to assess the claims as separate claims unless there was evidence to show that the whole of the wife's income was derived from the husband. In such cases the Commission treated the two claims as joint, where it was at all possible.

Where there had been a divorce, or separation, since the date of loss or damage, and one or other, or both, had submitted claims, the Commission were compelled to consider the case on its merits. The general rule followed was to suggest to each that they come to some mutual agreement concerning the division of the claim, and, having both signed this agreement, that they send it to the Commission. In such case the Commission generally treated the claim as a joint claim and divided payments under the award in accordance with the agreement received from the interested parties.

The treatment of the claim as a joint claim was generally to the benefit of claimants, because in such case the two incomes were added together and the claim was assessed under the higher income group appropriate.

When agreement could not be reached, the Commission had power to pay any sum payable under the War Damage Scheme into Court. The Commission had also power under the War Damage Scheme, where there were several proprietary interests in the property in respect of which the award had been made, to pay at its discretion either the whole of such payment to the claimants jointly upon trust to distribute the same amongst all those having such interests in such property in proportion to their loss, or divide such payment amongst such persons in proportion to their loss in such manner as the Commission thought just.

The general attitude of the Commission to husband and wife who no longer lived together in harmony, and who had each an interest in a claim, or in claims, submitted to the Commission, was to arrange a compromise. Many cases of disharmony have been treated in a manner resulting in a harmonious settlement.





## **CLAIMS BY PERSONS WHO HAD BEEN CONVICTED OF A CRIMINAL CHARGE, AND CLAIMS FROM DETAINEES UNDER THE EMERGENCY REGULATIONS**

It was at an early stage decided that claims from persons convicted of a criminal charge would be allowed on the principle that punishment had already been inflicted by the Courts in respect of the charge and that the Commission had no right to inflict further punishment on the claimant by depriving him of his right to claim.

It was at the same time decided to withhold payment from claimants detained under the Emergency Regulations, or serving a sentence on a criminal charge, until such claimants were released from detention or had served their sentence of imprisonment. Compensation was paid to all claimants on release from detention or prison except where such claimants were banished or repatriated, in which case their claims were rejected.

The present emergency has affected the Commission in a number of ways. Apart from claims such as above, there are some hundreds of Private Chattel claims for which the Commission cannot find the claimant. From information received many such claimants appear to have joined the bandits; some have gone to China; some are said to have gone underground. These claims have been classed as untraceable, and no further action can or will be taken. It will be seen, however, from the above decisions that the Commission were prepared to consider claims from persons who had been convicted under the Emergency Regulations, where the law permitted the Commission to do so.

### **LOANS, ADVANCES AND OTHER WAR DAMAGE PAYMENTS**

The Federation War Damage Scheme and the Singapore Scheme both made it obligatory to deduct from any award made on a Malayan War Damage claim all sums already received by claimant in respect of such War Damage from the Malayan Governments or Her Majesty's Government. There is additional provision in the Federation Scheme to pay, at the discretion of the Financial Secretary, War Damage compensation due to any person to whom a loan was granted from Federation Government sources. No similar provision respecting loans exists in the Singapore Scheme.

It was decided that no advances or loans made by the Singapore Government were to be regarded as recoverable from War Damage compensation.

A discrimination had to be made when applying the provisions in the Federation Scheme. In respect of Federation deductions it was eventually decided as follows:

- (a) The Outfit allowance (£60) made to Government officers on release from internment would not be deducted.
- (b) The cost of newsprint supplied to the Press from stocks under B.M.A. or Government control would be recovered.
- (c) Loans made by the Chinese Tin Mines (Rehabilitation) Loans Board would be recovered.
- (d) Loans made by Government to certain Tin Mines (mainly European) would be recovered and would be regarded as a first charge on the claim concerned in preference to any loan outstanding with the Industrial Rehabilitation Loans Board.
- (e) Loans made by the Industrial Rehabilitation Finance Board would be recovered.



- (f) Loans made to municipalities would be recovered.
- (g) Advances made to aided schools would be recovered.
- (h) Outfit allowances paid by the Malayan Representative in India to Government officers and volunteers and their wives would be recovered.
- (i) Advances made to Government officers and Volunteers in London by way of compensation for loss of personal effects would be recovered.
- (j) Advances made to Rubber Estates (normally by the B.M.A.) were suggested for recovery. This subject will be treated later.
- (k) A variety of other payments were made to claimants either directly or indirectly from the Federation Government, or from a source which has subsequently recovered such payments from the Federation Government, e.g., payments made by the Red Cross. Most of these were recovered.

All payments made by Her Majesty's Government were deducted from any award made on a Malayan War Damage claim, although such amounts might not be repayable to the sources concerned. Examples are payments made by the Board of Trade, War Office, Air Ministry or Admiralty. Amounts paid were deducted from the amount of the award approved by the Commission, unless it was clearly shown that the previous payment was not in respect of the War Damage taken into account when computing the award on the Malayan War Damage claim. Payment of a claim by the Board of Trade, etc., did not invalidate the Malayan War Damage claim. If the award on the Malayan War Damage claim exceeded the payment made by the Board of Trade, etc., then claimant was entitled to receive the difference from the War Damage Fund.

It was decided that debts due to individual Government Departments, e.g., Income Tax, were not recoverable as a general rule from War Damage Compensation, unless a Court order was obtained.

The Commission frequently receive requests from claimants that the amount of the Award be paid over in settlement of debt to some other person. Generally this request is refused. It is, however, possible for a claimant to give a written authority to the Commission to pay dividends falling due under his award to some other named person, or to a bank.

#### DECEASED CLAIMANTS AND MORTGAGES

Claims from persons who died since the date of the submission of the claim, and claims made on behalf of deceased persons by beneficiaries or legal personal representatives make up a substantial group to which special attention had to be given.

The War Damage Scheme provides that compensation due to the estates of deceased persons will normally be paid to the legal personal representative after production of Letters of Administration or Probate. Where, however, total payments under any award do not exceed \$2,000 and no legal personal representative has been appointed, payments can be made to the Public Trustee, the Secretary for Chinese Affairs, the Commissioner for Labour, any District Officer or other Government Officer for ultimate distribution. The Commission have power, instead of making payment as described above, to approve payment of any amount to any person where the Commission consider it convenient or equitable so to do.

War Damage Compensation payments are not liable to Malayan Estate Duty.



Payments direct to beneficiaries are made only where no legal difficulties or racial inheritance difficulties, arise, and where little investigation is necessary to establish the identity of the beneficiaries of a deceased person.

Where a claimant died since submitting his claim, some evidence of death is required by the Commission.

A good deal of the land held as smallholdings devolves, on the death of the owner, in accordance with the Shafii Law of Inheritance. While the Commission are not expected to act as arbitrators in respect of such properties, they are concerned to confirm the legal title of claimants to property stated by the Penghulu or District Officer to have passed to claimant under this law.

Property passing under the Shafii Law of Inheritance is frequently split up among many beneficiaries; and, where such property has suffered War Damage, many complications arise concerning proprietary ownership of certain portions of the original property for which War Damage awards have been made. The work of resolving these complications falls on Assessors, and demands an intimate knowledge of the Malay language and of Malay customs.

The person entitled to make a claim is the owner of a proprietary interest in the property damaged at the time of the occurrence of the damage. If at any time after the occurrence of the damage and before the making of the claim, a proprietary interest in or any mortgage or charge over the property damaged has been transferred or assigned inter vivos by operation of law or otherwise, whether absolutely or by way of charge from or by the owner thereof at the time of the occurrence of such damage to any person, such person may, with the approval of the Commission, make a claim in respect thereof, as if he had been the owner, mortgagee or chargee as the case may be at the time of the occurrence of the damage.

#### WAR DAMAGE CAUSED BY THAIS

When the Thais took over control of the four Northern States of Malaya, during the Japanese occupation, a considerable amount of War Damage was caused which strictly was due to the Thais, though, of course, the overall cause was the Japanese invasion of Malaya and subsequent occupation. It was decided that such War Damage would qualify for Malayan War Damage compensation, and no discrimination was made when assessing and awarding between such damage and damage caused directly by the Japanese.

In addition to this War Damage incidental to the presence of Thais in the four Northern States, certain Tin Mines in these States suffered war damage by reason of their machinery and equipment being transported to Thailand. There was also considerable damage inflicted on British nationals who owned or were working Tin Mines and Rubber Estates in Thailand.

The Thai Government invited claims from private persons living in Malaya, and from firms registered in Malaya, who had interests in Thailand or the four Northern States. These claims were screened by the Commission and forwarded to the Thai Government, who had an assessment made and approved a satisfactory settlement. Thus all damage inflicted by the Thai Government or nationals, for which claims were submitted, was compensated either directly by the Thai Government or by the War Damage Commission.

It should, of course, be understood that though Thailand was nominally stated to be in control of the four Northern States, and though Thai officials held important posts in these States during the occupation, the real invader never ceased to be the Japanese, and confiscations of property made in the name of whatever Government could most truly be regarded as confiscations



by the Japanese. These States form the most important rice growing area in Malaya, and the rice crop was taken over by the Japanese on payment of prices often out of relation with real values at the time of purchase. It is for these reasons that no discrimination was made in the handling of claims for loss or damage attributable to Japanese or Thais.

#### **PAYMENT TO CLAIMANTS RESIDENT OUTSIDE MALAYA**

Although the primary object of the Scheme was the rehabilitation of the economy of Malaya, it did not prohibit compensation being paid, particularly for Private Chattels, to claimants who subsequent to the damage had settled outside Malaya. The majority of such persons, of course, had settled in the United Kingdom, but there was also a substantial number who settled elsewhere in the Commonwealth. A few settled in foreign countries.

Where such settlement was made within the sterling area, as applied in nearly all cases, there was no difficulty as far as payment was concerned. Outside the sterling area involved exchange control, and this had to be sought in all cases of remittances despatched by the Commission in settlement of claims.

Where War Damage Compensation had been awarded to a firm in Malaya with a head office outside the sterling area, payment was made to the Branch Office in Malaya on the understanding that the Branch Office would be responsible for obtaining Foreign Exchange Control permission, if subsequent remittance outside the sterling area were necessary.

This payment of compensation to claimants outside Malaya to a degree fails to meet the primary purpose of the Scheme; namely, to restore to 1941 productive capacity the capital assets of the country. It is thought, however, that failure to meet such claims could not be justified, and there is the point that many such claimants have indirect interests in Malaya which are affected by the War Damage payments received. In any case it would be harsh to draw a line ruling out non-residents after the liberation of the country from the Japanese. Also the very great majority of such overseas claimants reside now in the United Kingdom, from which a substantial portion of the funds to make war damage payments comes.



## CHAPTER XVIII

## OTHER CLAIMS

## CLAIMS FROM RELIGIOUS AND SEMI-RELIGIOUS BODIES

Many novel features attached to these claims, which fell into the category of business claims and were therefore directly subject to the test of economic importance. The Commission decided that religions, whatever the creed, had a fundamental importance in the life of people living in this country and therefore must be considered as a factor also in the economy of the country. The difficulty was to decide what could be allowed on an austerity basis in respect of religious regalia and aids to worship. Some creeds require an elaborate and expensive regalia, others, like the Moslem faith, stress simplicity in devotion.

There were also what the Commission, for simplicity, classed semi-religious bodies, such as Masonic Lodges, Charitable Institutions, Cultural Societies, etc. These too have a certain amount of regalia required by the procedure approved in them.

The Commission decided to restrict the allowance for regalia and aids to worship to \$500; that is to say that \$500 was to be the maximum under this head in any particular claim.

Claims from these bodies relating directly to buildings and to permanent essential fixtures therein, of ordinary quality or quantity, were allowed in full in accordance with the general rules of assessment for building claims. The award could be either a Restoration award or an Outright award, according to the application of the Building Scheme to the particular claim.

Claims for chairs, tables, benches, fans, lights, etc., were admitted for compensation on an austerity basis, and the normal rule of ordinary quality and quantity was applied; for example, many such claims were for teak furniture. The Commission considered that furniture made in meranti wood would suffice, and awarded accordingly.

Claims for prayer mats used in Mosques were specially allowed, because it was considered that these were really substitutes for the usual chairs used in other churches and temples.

## PAWNBROKERS

Claims from Pawnbrokers caused considerable difficulty to the Commission. This is due mainly to the distinction that must be drawn between articles held in pledge and articles held for sale, and also to the fact that no compensation was payable in respect of jewellery or the precious metals regarded as Private Chattels.

An article pawned immediately before the invasion, and not redeemed within the time allowed, may nevertheless still vest in the pawner. Where such was the case the pawner could not claim if the article were jewellery or were made from one of the precious metals (unless on a utility basis which was generally negligible). The pawnbroker had a proprietary interest in the article but not a complete interest.

Also most articles pawned were already claimed in the Private Chattel claims of the pawners.

The Commission decided that the most equitable course was to disallow claims from pawnbrokers in respect of property held in pledge, but to allow claims in respect of articles held for sale.



### CLAIMS FROM LIMITED COMPANIES

In the ordinary course a claim from a limited company is the same as a claim from a private person. Complications arise when limited companies that have submitted claims go into liquidation, or where the claim is submitted by the liquidator. Possible cases are conveniently grouped under these heads:

- (a) Liquidation not completed by time of assessment. Such a claim qualified for assessment and payment in the usual manner. The liquidator was treated as the representative of the company to receive payments under the award.
- (b) Liquidation completed by time of assessment; here the claim was rejected. If, however, action had been taken by the time of assessment to revive the company within the period permitted by the Companies Ordinance, and the resurrection was not for the sole purpose of receiving War Damage compensation, the case was reviewed, and, if there were no complications of an adverse nature, payment was approved.
- (c) Limited Companies that had ceased operation. A number of limited company claims were received from claimants who had interests in limited companies that were allowed to lapse during the Japanese occupation and which had been struck off the register by the Registrar of Companies. In all such cases the claim was rejected unless the company was re-registered by the Registrar of Companies by the 18th November, 1950 (the closing date for the receipt of claims). If the Company had re-registered by the 18th November, 1950, the claim qualified for assessment in accordance with normal rules.

### PRIVATE LIGHTING SETS

Claims in respect of private lighting sets caused some misunderstanding, and were therefore made subject to clear rules. These are as under:

- (a) If a lighting set was owned by a claimant living outside the area of electric power supply, the plant was assessed under Private Chattels. If the lighting set was purchased and installed prior to the extension of electric power supply to the area in which claimant lived, and was still in use in December, 1941, the plant was assessed under Private Chattels.
- (b) If claimant was Manager of an Estate, positive proof that he paid for the plant was required. Failing such proof, he could produce negative proof in the form of a letter from the agents of the Estates that the plant was *not* purchased by the Company owning the Estate. Such proof permitted the claim to qualify for assessment under Private Chattels.
- (c) No claim for lighting sets used in Estate bungalows was accepted under Rubber Planting claims. Proprietary planters, however, resident on their Estates at the time of loss, were allowed assessment of electric lighting sets as Private Chattels. Absentee proprietary planters, at the time of loss, were not allowed assessment of electric lighting sets.
- (d) Since the assessment of lighting sets was permitted in the above circumstances under Private Chattels, the awards for which they would qualify were Outright Awards.

### CLAIMS FROM GOVERNMENT DEPARTMENTS

After considerable discussion the Commission decided *not* to pay claims from Government Departments of any country. This rule extended also to Government Agencies and Government sponsored bodies.



This decision applied both where such claimants had a claim registered in their own names or where property belonging to such claimants was incorporated in a claim submitted by an Agency House, or any other form of Agent.

The principle underlying this decision was that since the War Damage Fund is contributed by the British Government and the Malayan Governments, it would be illogical to pay back to these Governments funds contributed for the restoration of Malaya's economy. The principle was extended to include all Governments, since it would be clearly anomalous to pay claims from a Government because it did *not* contribute to the War Damage Fund.

### THE APPLICATION OF AVERAGE TO WAR DAMAGE CLAIMS

Average, in the insurance sense, could affect only claims under War Damage for goods in respect of which claimant was liable to take out insurance under the War Risks (Goods) Insurance Scheme.

Such claims fall into one of the following three classes:

- (a) Claimant fully insured (or over-insured)
- (b) Claimant under-insured
- (c) Claimant not insured.

No question of "Average" arises in respect of class (a) above.

Where the claim fell into class (b), claimant was asked to explain why he was under-insured. Where the excuse offered by claimant was reasonable and acceptable to the Commission, the claimant was regarded as fully insured and no disability was suffered by claimant by reason of the short insurance, except that the unpaid premium for the quarter year in which the loss occurred was deducted. If, on the other hand, the excuse offered by claimant for under-insurance was not acceptable to the Commission, average was applied.

Similarly with claims in class (c), the claimant was asked to explain why he was not insured, and the same procedure as in (b) was applied. If, however, the excuse offered for non-insurance was not accepted, the claim was rejected in respect of that portion applicable to insurable goods.

The only excuse considered acceptable to the Commission for non-insurance was one showing clear frustration of an effort to insure. Claimant had to prove that he made a serious effort to insure, but was frustrated by causes beyond his control. In respect of class (b) the Commission were more lenient and were prepared to accept proof that claimant was not in a position at the time to know exactly what the value of his property was, and that such value had been suddenly increased by exceptional events during the 1941/42 emergency.

Thus the only class of claim to which average was applied was one where there was under-insurance. Such a claim might be for

- (1) total loss, or
- (2) partial loss.

Where the claimant suffered total loss, no formula was used for calculating average. Claimant was awarded the full extent of his insurance cover (provided of course war damage loss was proved), and nothing was deducted in respect of the loss not covered by insurance.

Where claimant suffered partial loss, the following formula was applied:

$$\frac{\text{Amount of Insurance}}{\text{Value at Risk}} \times \text{Amount of Loss}$$



## CHAPTER XIX

### THE EAST COAST

Numerous references to work on the East Coast appear elsewhere in this report. The reason is that the problems presented to the Commission there were very different from those presented elsewhere in Malaya. A quite different approach had to be made to these problems; and this approach has been so successful, and the conduct of it so meritorious to the particular officers concerned, that it warrants a special chapter.

The Commission's East Coast district comprised Kelantan, Trengganu and East Pahang. In that district the majority of war damage claimants are rural people engaged in agricultural pursuits. In the hinterland of this large area, comprising as it does more than one quarter of the whole Malay Peninsula, initial losses followed a typical pattern. Livestock everywhere was slaughtered for food; small flimsy houses built of planks and attap were smashed for firewood, and, wherever more substantial timber was available near the main roads, this was seized by troops for repairing the many bridges destroyed by the retreating army. Looting was not widespread in the farming areas, but in the villages many shops and small holdings were ransacked. On the coast near Kuantan the fishermen and their families were driven from their homes. Boats were destroyed as an act of denial, and losses of household goods, as well as fishing gear and livestock, were suffered during panic evacuation by the inhabitants.

Looting and destruction ceased for a time when the Japanese were fully established. Nevertheless the smallholders everywhere still continued to incur losses during the occupation period. First came the Japanese order for surrender of firearms which deprived padi planters of their only defence against wild animals that destroyed their crops. Few of these guns were ever recovered by their rightful owners. Next followed the unwise decision to cut down orchards and rubber plantations in order to plant food crops. This order soon became a dead letter, but meanwhile several thousand acres of productive trees were felled regardless of the suitability of the land for growing vegetables or padi. Similarly, in the latter stages of the Occupation, came the Japanese drive against guerillas which resulted in the burning of houses, razing of crops and destruction of livestock belonging to smallholders in many areas.

The War Damage Commission opened an office in Kota Bharu at the beginning of 1950. Kota Bharu is only six miles away from the original Japanese invasion point, and it was the first town to fall into enemy hands. The number of claims registered for investigation and assessment by the Kota Bharu office was 23,182. This was the largest number of claims to be registered in any one assessing district in Malaya.

Kelantan is divided administratively into seven districts, which are split up into Daerahs. The Daerahs are administered by Pengawahs, and under them are the Penghulus of the Mukims. In all there are 67 Daerahs and 298 Mukims. It was decided that the best policy would be for the investigating team to visit the headquarters of each Daerah on the first circuit. With the approval of the Kelantan Government, a programme of visits was drawn up and copies were sent to all Pengawahs and Penghulus throughout the State.





Outside of the few towns in Kelantan there are no postal facilities. Letters go first to District Offices from whence they are collected, perhaps once or twice a month, by Pengawahs. Penghulus pick up letters for their own Ra'ayats when they call at the Pengawah's office. Letters sent from Kota Bharu may take as long as two months to reach outlying farms and villages. In order to save time it was, therefore, decided to prepare lists of claimants by Mukims and to hand these lists to Penghulus who were requested to call everyone on the lists on specified dates. At that time all possible general publicity was given to the programme. Public Relations Department vans broadcast throughout all districts, and copies of programmes written in Jawi were posted up in public places. Assessors attended conferences of District Officers and Pengawahs in order to explain what they proposed to do when investigating claims. The Superintending Assessor for the whole of the East Coast also addressed a meeting of more than 70 Malay School Head Masters, who came from all over the State.

The first Daerah to be visited was Pangkal Kalong. The Pengawah's office was located in the sizable village of Ketereh on the main road about 13 miles from Kota Bharu. The Commission's reception surpassed expectation: many villagers were present as well as a number of farmers from nearby kampongs.

On the first morning some 40 claims were examined. It was something of a shock later on to find that more than half of these claims were false. As it turned out the Commission had picked the area with the highest proportion of false claims on the East Coast.

A proportion of the Ketereh claims were for loss of shops and houses stated to have been destroyed as a result of a Japanese air raid. Investigation showed that all these buildings had been destroyed, but not by enemy action; the occupant of an upstairs apartment had knocked over a lamp which set his house on fire and the flames had spread rapidly until most of the town was burned. Confirmation of this was found in the archives of the State Secretariat; and, as a result of these findings, the writer of the false claims was prosecuted.

In spite of the general suspicion aroused by this incident no claim was ever recommended for rejection without careful investigation of all available evidence, and this meant that Assessors often had to walk miles through difficult country to inspect smallholdings. Frequently they waded through swampy fields to reach their objective. All this activity caused a great deal of surprise among farmers because few people had expected that their claims would be very closely investigated. As time went on it was realised that claims would be dealt with fairly and without preference. All this helped to establish the confidence of the country folk and to induce them to co-operate closely with the Commission. In most Daerahs questions were truthfully answered and exaggeration often frankly confessed, besides much useful information was volunteered by farmers and workers who were met by Assessors in the fields.

Pangkal Kalong was not, of course, the only area where false claims were discovered. Wherever the peripatetic unlicensed claim writers had penetrated in their drive for business, exaggerated claims were evident. On the other hand claims written by licensed Petition Writers, or by Pengawah's clerks, nearly always appeared to have a sound basis, and it was rare to find a false claim compiled by the claimant himself. A notable exception to this was the smallholder who had no less than nine claims registered in the



names of his close relatives, and which together amounted to \$90,000. Investigation showed that the various holdings on which losses were supposed to have been suffered by this claimant did not belong to the claimant's family. The public discomfort of this type of person usually delighted his neighbours.

In Kelantan there are more than 100,000 smallholdings scattered over a large area of the country. In theory all changes of ownership of holdings should be registered in District and Land Offices, but in most instances the Commission found that it was dealing with claims for loss of property registered in the name of long dead ancestors of claimants. It was often discovered that land had been sold or mortgaged without formality, and it was obvious that the War Damage Commission could not afford to wait indefinitely for official records to be brought up to date. On the other hand it would not have been politic to ignore local custom entirely, and it was, therefore, decided to accept the Pengawah's written guarantee regarding claimant's interest in a property at the time of loss.

Numerous holdings belonged to partners. Where the question of inheritance remained unsettled it was not uncommon for ownership of a holding to be shared by as many as six relatives. In one case more than sixty people appeared to have an interest in a small claim. Fortunately instances such as this were not too numerous, but nevertheless a great deal of time was spent in interviewing partners and relatives of claimants because assessment could not be made on these claims until agreement had been reached by all the partners concerned.

At an early date it was realised that the same holdings figured over and over again in different claims. Partners often claimed separately and vendors and purchasers of a property often both claimed for the same losses. Sometimes the same person would have two or even three different claims for the same Lot, and as Romanised spelling of Malay names often differed; for example "Ismail" on one occasion and "Che Wel" on the next, there was danger that duplications would not be readily detected. To meet this difficulty a complete Card Index of all Lot numbers of holdings appearing in the War Damage files was compiled. This Index consisted of some 30,000 cards and proved of the utmost value to Investigators.

Investigators and Assessors were called upon to exercise great patience in dealing with country people. Due to illiteracy of the population most claims were signed by impression of thumb prints. In certain types of claims such as those for vehicles, completion of the questionnaire forms were necessary, and wherever possible these forms were written up by the Commission's staff at claimant's dictation. This not only insured greater accuracy in claimant's answers to questions, but it also saved payment of claim writers' fees which were frequently exorbitant. Rural people travelled great distances to visit the office of the Commission, and the staff were specially instructed how to deal with queries regarding claims and difficult questions. Where complications arose the Senior Officer on duty gave immediate attention to them.

The experience gained in Kelantan proved valuable when the work of the Commission was extended first to Trengganu and later to East Pahang. As the work travelled further South, however, less difficulty in establishment of land ownership was experienced. In the Kuantan and Pekan districts, where many of the inhabitants are educated in English, investigation of claims proceeded very much more rapidly. The main exception to this was in the



fishing villages, because all records of registration of boats had been lost and complications over ownership paralleled those encountered when dealing with Kelantan smallholders' land claims.

By the end of 1952 more than 20,000 East Coast claims had been assessed, but it was becoming obvious that the Scheme was no longer working satisfactorily. Attendance at circuit meetings in Pengawahs' offices fell off substantially, and in every Daerah there appeared to be hundreds of untraceable claimants.

The existence of a large number of claims submitted by persons who had never come forward for interview, though called many times, could not be explained. Many reasons were advanced, but one point was clear; namely, that there was no proof that each and every individual concerned had received the message sent out by the Commission through the Penghulu of the Mukim.

In November, 1952, a team of Assessors and Investigators went out into the Daerah of Kemumin. This was the area in which the Japanese first landed in December, 1941. The Pengawah of this area readily agreed to give the Commission a free hand, and the plan adopted was for the team of Investigators to split up and visit every kampong in the area and metaphorically to knock on every smallholder's door.

The tour of Kemumin produced the answers to many questions. Several claimants said they had not been called in from outlying farms: others had been away fishing at sea: many had emigrated temporarily to Thailand at the time when the price of rubber made it worth while to go there to tap trees on a sharing basis. As expected also there was a proportion who, in spite of all assurances, had been too frightened to come forward for interview; their claims had been carelessly written. Hardly a single Lot number was correctly recorded, and exaggerated claims for goods sold under duress to Japanese and Thais had been added by the Claim Writers, who had based their fees pro rata on the total amount claimed.

The team was then re-inforced by a number of office clerks who were specially trained for the work, and the plan was for the team to go out and talk to the farmers and explain that the Commission would pay compensation for genuine losses. Central meeting places, such as Malay Schools, were selected, and it was not long before the new plan brought results. Penghulus, Religious Leaders of Communities and School Masters all helped. Once again Investigators worked out tangled problems of ownership and discounted obvious exaggerations, and by the end of the year very nearly every claimant in Kemumin had been accounted for. Of those who had not been seen most had been certified as having disappeared without trace.

As soon as it was certain that the new kampong to kampong circuit was bringing results, Investigators were sent out to other districts, and a steady flow of investigated claims began to come in. It is now anticipated that the majority of rural claimants will be traced before the end of 1953. Judging by the Commission's reception in the kampongs of Kemumin the appearance of accredited representatives of Government are welcome, and the fair distribution of War Damage compensation among Malay Ra'ayats who suffered at the hands of the invaders will go a long way to confirm public confidence.



## CHAPTER XX

### ASSESSMENT BOARDS

The original idea respecting assessment and approval of War Damage claims was to have the Assessment made on the location of loss where this was at all possible. The assessment would then be screened by the officer in charge of the Assessing district, and the claim would be sent to Headquarters. At Headquarters the assessment would be examined by the Superintending Assessor in charge of the particular Category (or sub-category) of claim to which it belonged and, with his approval, would go to the Assessment Board. This general idea proved the normal procedure, and though exceptions were made in respect of small simple claims, it was the principle applied from the beginning to claims of all categories coming forward for assessment.

The War Damage Scheme provided for the appointment of not less than eight persons who were officers or servants of the Commission to be members of an Assessment Board. This had to be greatly extended when the work progressed towards full volume, and eventually the Commission approved that any officer of the rank of Assessor or above appointed to the Board by the Chairman should be a member of the Assessment Board.

This may appear an exceptional development of the original idea of eight members; but the fact is that the volume of claims coming in from Assessment districts was such that as many as eighteen Assessment Boards had sometimes to sit weekly. The normal was fourteen to sixteen Boards weekly.

Work on an Assessment Board is strenuous. There are three members (minimum) on each Board including the Chairman, and a Board normally runs from 8.30 a.m. to 12.30 p.m. or from 2.15 p.m. to 4.30 p.m. As many as three Assessment Boards may be sitting at one time, which means nine senior officers of the Commission engaged simultaneously on this work. Thus the immediate problem was to find staff for the Assessment Boards.

The output of Assessment Boards varied enormously. As many as 100 small claims, of a uniform character, might go through an Assessment Board sitting in the morning session; but again a Board might have to sit several days to clear a single difficult claim.

The importance of the work done by Assessment Boards is obvious. Although every care was taken to instruct Assessors and Investigators working in the field, with the object of obtaining the correct assessment from them according to the rules laid down, nevertheless there were large variations in assessments on claims of the same category and type coming in from different assessors. The Assessment Board ironed out these variations, and gave awards on assessments as near as was possible to uniformity. Also Assessors were called in from the field at intervals in rotation to work for one week on Assessment Boards. This was a splendid education in assessing work. These Assessors discussed their difficulties with other Assessors whom they met on Assessment Boards, and, better still, referred these difficulties to the Superintending Assessor in charge of the category of claim to which these difficulties belonged. They had their difficulties explained away or resolved. There were occasions too when these difficulties were referred to higher authority, and a staff instruction, or circular notice, was issued to all officers of the Commission giving a decision on the questions submitted.



Not only were Assessors called in as members of the Assessment Boards, but, especially in the early days, Superintending Assessors on their own initiative asked to have a week's sitting at Headquarters on Assessment Boards. During that week intense discussion on the innumerable problems presenting themselves would be carried out, and the result would be a number of new decisions. Also a Superintending Assessor from a large urban area like Singapore would naturally have problems not applicable to a large rural area like the East Coast. This variety of problems provided a ferment of discussion at Headquarters which was exhilarating, and proved most productive in practical ideas. Ideas were encouraged; discussion was welcomed; criticism was most carefully weighed. It was felt that the Commission could not neglect any suggestion that promised more efficient working of the enormous and complicated machine that had been put together.

The War Damage Scheme provides that three members of an Assessment Board shall constitute a quorum at any meeting, and that all acts, matters or things authorised or required to be done by the Board may be decided by a majority at any meeting at which a quorum is present.

The Commission had several hundreds of smallholders claims. The average amount claimed was \$231 in each. The method of assessment employed in these and other similar claims was strictly laid down in a book of instructions issued to each Assessor. The Assessor, therefore, had very little latitude in coming to his conclusion regarding the assessment; he had simply to verify three particular things: (i) that the claimant owned the property at the time of loss or damage; and (ii) that the loss or damage was such as to place it within the definition of War Damage; and (iii) the quantity lost or destroyed. From these particulars the amount of the Assessment followed almost automatically and allowed hardly any room for difference of opinion.

As very great pressure was put on the Commission to clear smallholders claims, a short cut method was adopted in respect of nine Assessment Boards dealing with these claims. This short cut method was exceptional to these claims and was not again repeated.

There is no doubt about the value and efficiency of the Assessment Board system employed as it has been employed by the Commission. It has carried out the work for which it was intended expeditiously and, it is believed, to a greater degree of efficiency combined with speed than any other practical arrangement could do. The claimants have the assurance that the personal bias of the Assessor, where such bias exists, will be corrected when the claim reaches the Assessment Board. The Commission know that, where assessments are made too generously by Assessors working in the field, these assessments are corrected and brought into line with the correct degree of austerity required by the Commission.

With Tin Mining claims a variation of the normal Assessment Board procedure was followed. These claims are highly technical, and it was decided at the beginning that a Tin Panel should be formed from competent members of the industry, from which could be drawn two members for each sitting of the Panel. The Chairman of the Tin Panel was the Accountant of the Commission, and this combination of talent and experience produced the happiest results. Tin Mining claims could easily have developed into a succession of disputes; under the competent handling of the Accountant and the loyal and most excellent co-operation of members of the industry, there was no problem that did not proceed to a satisfactory solution. After passing the Tin Panel the claim then went to the normal Assessment Board; but it



was found that Tin Assessment Boards so rarely differed from the decisions of the Panel, that an arrangement was eventually made whereby the Panel itself operated as an Assessment Board. This has worked very smoothly and satisfactorily.

Another variation to the normal was the holding of Branch Office Assessment Boards. This was resorted to because of the enormous pressure on the Boards sitting daily at Headquarters. It was decided that very small claims containing no controversial factors should be despatched to the nearest Branch Office where an Assessment Board dealt with them. Thus certain small Penang claims were passed by an Assessment Board sitting in Ipoh, and small Ipoh claims were passed by an Assessment Board sitting in Penang. This arrangement was strictly confined to the simplest claims and worked very well during the few months it was in operation. By its means the pressure on Headquarters Boards was relieved, and a large quantity of claims that had piled up for Board approval was cleared.

It will be appreciated from this that a very important factor in the smooth running of the Commission was balance. Naturally a capacity to assess had to be built up in districts competent to handle the work within the programme period. That was a first consideration, and towards that end each Assessor and Investigator was given a quota of claims which he had to assess during each week. Failure to reach the quota drew the attention of Headquarters to the officer concerned, and jeopardized his appointment. Actually it was rarely found necessary to resort to disciplinary action, and the quota system produced the results for which it was designed.

Thus the wheels of the Commission in the districts were tuned up to the speed required, and within one year after work began; that is to say, in 1951, assessed claims were coming through at a speed comfortably ahead of what was necessary to achieve the programme laid down.

This flow of claims to Headquarters drew attention to the next stage, which was the Assessment Boards. From half a dozen Boards a week these had to be increased to as many as eighteen in one week. Even so, balance had not yet been achieved, and Branch Assessment Boards were set up to deal with simple claims, and also to restrict slightly the flow to Headquarters, because a Branch Board required two Assessors sitting under the Chairmanship of the Superintending Assessor for about one day per week. This adjustment brought about the balance required, without damping down unduly the tempo of the Assessing machine.

When a large and complicated organization is set in motion, a most important factor is the rhythm to which it works. Where a satisfactory rhythm can be achieved, all parts of the organization will then move to the same pulse beat. If a portion lags, it should be stimulated to the tempo of the main body; if a portion moves too quickly, it should be damped down to the common level. This was the ideal kept in mind by the Commission, and, I am happy to write, generally achieved. Once a satisfactory rhythm of work is set up, there is a tendency for this rhythm to prevail over inertia without much variation and without much attention.



## CHAPTER XXI

### APPEAL BOARDS

The War Damage Scheme provides that "any person aggrieved by any Award or decision of the Assessment Board may apply in writing to the Secretary of the Commission within fourteen days in the case of claimants resident in Malaya, and one month in the case of claimants resident outside Malaya, of the receipt by him of a copy of the award, or a notice of refusal of an award, for a written statement of the grounds on which such award or refusal was based. Upon receipt of such application together with a fee equal to one-tenth of one per centum of the total amount claimed, with a minimum charge of five dollars and a maximum charge of fifty dollars, the Board shall prepare and send to such persons, such a written statement".

"Within one month after such person if a resident in Malaya and three months if a resident outside Malaya has received such written statement, such person may present a written notice of appeal to the Appeal Board through the Secretary of the Commission".

These Assessment Board statements proved in practice to be generally difficult to prepare and to involve a great deal of extra work on the part of the Commission. That difficulty arose from the fact that the statements had to be prepared at a high level with a view to placing in claimant's hands material for Grounds of Appeal, should he wish to appeal against the decision of the Assessment Board. Also the Commission endeavoured, when preparing these statements, to explain the reasons for the Awards given in respect of the various items, in the hope that this explanation would satisfy claimant and that there would be no necessity to go to the expense and labour of having an appeal. In fact, the Assessment Board Statements do satisfy most claimants, and the number of Appeals relative to the total number of assessments, and relative to the number of Assessment Board Statements, is remarkably small.

If the claimant is not satisfied with his assessment as shown by the Assessment Board Statement, he may take the necessary action to have his claim brought before an Appeal Board.

The Notice of Appeal must be accompanied by a fee which is prescribed as "a sum equal to two per centum of the amount by which the Award falls short of the total amount claimed, provided that the amount of such fee shall not be less than \$10 or more than \$500. If the Appeal succeeds in whole or in part, such fee, or such part thereof as the Appeal Board may in its discretion direct, shall be returned to the appellant and subject thereto all such fees shall be paid direct into the Fund".

Thus claimant is assured of an independent and impartial review of his Assessment, and, where such assessment is altered, he can reasonably expect the return of the whole or part of the Appeal Board fees he has paid.

Appeal Boards are not held regularly. They are held when there are a sufficient number of appeals to justify a day being allotted to them at some particular convenient centre such as Kuala Lumpur or Singapore.

Every Appeal Board consists of three members of the Commission, one of whom is either the Chairman or the Deputy Chairman of the Commission. Such Chairman or Deputy Chairman of the Commission is Chairman of the Appeal Board.



In practice, so far as it can be arranged, Appeal Boards consist of the Chairman of the Commission as Chairman of the Appeal Board and of two unofficial Commissioners. The difficulty is in finding unofficial members of the Commission to serve on these Appeal Boards. This is not to say that Commissioners are unco-operative; the contrary is the fact; but a date that may suit one Commissioner may not very well suit another Commissioner; a locality that may suit one Commissioner may not suit another Commissioner; and, as an Appeal Board sitting normally lasts a day and sometimes three or four days, it will be appreciated that the demands made on Commissioners to sit on Appeal Boards are most exacting. Appeal Board work is strenuous, and requires a great deal of preparation on behalf of the three members of the Board and of the staff of the War Damage Commission.

Claimant may bring one expert witness to the hearing of his Appeal to assist him, and he may be represented by his Legal Adviser or by any other person whom he wishes, and subject to the discretion of the Chairman of the Appeal Board. Actually little or no restrictions are placed in the way of claimant when his Appeal is being heard. He is at once asked whether he wishes to add anything to the written Grounds of Appeal he has already submitted, and everything he says, or everything said on his behalf by his Legal Adviser, is given a patient and attentive hearing.

The Appeal Board may at its discretion receive further evidence upon questions of fact other than that contained in the Grounds of Appeal forwarded to it by the claimant, and such evidence may be given orally on oath or otherwise, or by Statutory Declarations or deposition on oath or otherwise taken before an Officer of the War Damage Commission appointed in that behalf by the Appeal Board. Also the members of such Appeal Board may, for the purposes of that appeal, exercise all the powers conferred upon Assessors as regards obtaining information from claimant, or entering upon premises, or producing documents bearing upon the claim.

The proceedings of all Appeal Boards are taken down verbatim, and where a decision is deferred, as occurs when the Appeal is complicated, the full report of the evidence and the discussion of the Commissioners is available to the three Commissioners who are members of the Appeal Board, for subsequent discussion. It can be said that these Appeal Boards are highly successful; they enable claimant to ventilate any grievances he may have against the assessment, and to have any errors, which he thinks the Commission has made in computing the assessment, corrected. Most Grounds of Appeal are based upon a misunderstanding of the methods of assessment employed by the Commission. This is natural and unavoidable, but it has its ultimate remedy in the Appeal Board.

Where the Appeal Board makes a decision in favour of claimant, the Appeal fees are generally repaid to him. Where, however, claimant has only partly succeeded, the Appeal Board may decide to refund the fees only in part. There have been cases where even though the decision of the Appeal Board was largely against claimant, the Appeal Board fees were refunded because it was considered that a misunderstanding had occurred, and that claimant was in no way to blame for that misunderstanding.

Most Private Chattel appeals are grounded upon the income of claimant adopted by the Assessor for the assessment. This annual income figure is provided by claimant himself; but it is frequently merely his monthly salary and does not include, as it should, supplementary earnings from investments or other interests. Such disputes are easily resolved.

Appeals in the Tin and Rubber claim categories are very different affairs. Tin Mining claims particularly give rise to many different interpretations of the general War Damage Scheme, and to the special Tin Scheme agreed with





representatives of the Industry. What substantial items of post-war expenditure in Rubber and Tin shall be regarded as attributable to Restoration and what to ordinary accumulated maintenance are questions of the greatest difficulty to solve, and require the Appeal Board to go deeply into the history of the mine and the plans of appellants. Some of these appeals require two or three separate sittings of the Appeal Board, and an enormous amount of enquiry and discussion before the questions raised by the appellants can be equitably answered.

I wish to stress the care that is taken by Appeal Boards to reach equitable decisions. About a fortnight before the sitting of an Appeal Board each member of the Board is provided with a file for each case to be heard. Included in that file are copies of all relevant documents bearing on the case, the Assessment Board Statement setting out the Commission's reasons for the Award made, and the appellant's grounds for appealing against that award. Thus the members of the appeal Board, before they take their seats on an Appeal, have already made a study of the case and know the various points at issue between the appellant and the Commission.

Appellants who attend their appeals, and plead before the Appeal Board either personally or through a legal adviser, sometimes get the impression that the Appeal Board moves too swiftly towards its decision. That is very far from being the fact. The members of the Appeal Board concentrate on the points in dispute and seek such evidence on these points as will enable them to give a decision for or against the appellant. They avoid statements and issues not strictly relevant to the question they have to resolve, and they seek to keep appellant strictly to the matter in dispute. Nevertheless, on appellant's entry he is asked whether he wishes to add verbally to his Grounds of Appeal, or if he wishes to emphasize any statements therein. What he wishes to say he is allowed to say without restriction or restraint. When he has finished, members of the Board ask such questions as they require to enable them to decide the issue.

Perhaps I am not the person best qualified to judge the work of Appeal Boards, being too much concerned therein. But my opinion is that the results will stand any reasonable test as to whether the appellant has had a fair hearing, and whether the grounds of the appeal submitted by him have been carefully and equitably considered by members of the Appeal Boards. I believe this opinion is shared by all those who have been present at Appeal Board hearings.

#### **INTERESTS OF OFFICERS SERVING ON ASSESSMENT BOARDS AND ON APPEAL BOARDS**

It was appreciated at an early date in the life of the Commission that the private interests of its staff might create a bias in their judgment when dealing with claims. Even where an officer had a very high moral outlook, there was a danger that such an outlook may make him unduly austere when judging claims from properties in which he had an interest. There was thus a danger in two ways.

The form of appointment agreement adopted by the Staff Committee provided that the officer engaged should not, without the previous written consent of the Commission, either directly or indirectly be engaged or concerned in any other service or business whatsoever, or receive commissions or profits of any kind. Applications were received for such written consent, and it was decided by the Commission at its third meeting that power should be delegated to the Staff Committee to consider all such applications and to approve or reject them at discretion.



The greatest care is taken to see that an officer who has declared an interest in a property in respect of which a claim has been received does not serve on the Assessment Board dealing with that property. As regards Appeal Boards, the Commission naturally cannot exercise a control over unofficial Commissioners serving on these; but Commissioners are aware of the rules applicable to officers of the Commission, and it is expected of them that they will refuse to adjudicate on any claim in which they may have a direct or an indirect interest.

### SPECIAL ASSESSMENTS

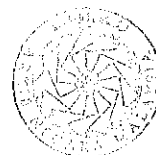
Closely associated with the question of Assessors having an interest in certain claims was the question of Special Assessments.

Some of the claims that had been submitted to the Commission required specialist knowledge that could not be supplied by the staff; for example, claims from Harbour Boards, Municipalities, Perak Hydro, Malayan Collieries, Raub Gold, Oil Companies, and, to some extent, Tea and Palm Oil Estates. The Commission therefore made arrangements for certain claims which could not easily or expeditiously be assessed by the Staff to be assessed by outside experts on a special fee basis. Generally speaking the special fee agreed upon worked out at 0.4 per cent. of the amount claimed, but there were some exceptions to this, depending on the special circumstances of the case.

Naturally the Commission could not require the special Assessor to submit a statement of his private interests, nor could they, even where it was known that the special Assessor had an interest in the claim entrusted to him, restrict him in any way. The possibility that special Assessors had such interests was always recognized, and for this reason their assessments were checked over most carefully by the officer in charge of the particular claim category to which the claim belonged. Such special check revealed, in all cases, that special Assessors had exercised scrupulous care when computing their assessments, and that no trace of bias was present.

The Municipalities of Singapore and Penang submitted large War Damage claims, so also did Malayan Collieries and Perak Hydro Electric. As these were all in the nature of public utilities, it was decided that in the general public interest the claims should be assessed as early as possible. The work was accordingly given to special Assessors, with very satisfactory results. Raub Gold was also, for various reasons, entrusted to a special Assessor, for the purpose of assessment.

Thus while it can be stated that the system of special assessment, as applied in the restricted manner adopted by the Commission, was very successful, it was decided that outside of the restricted field imposed it might not have been so satisfactory.



## CHAPTER XXII

## PRIVATE CHATTELS

Claims for Private Chattels have, from the beginning, amounted to an uncertain sum. This is due to the fact that only a close analysis, such as could be applied by a trained Assessor, could determine whether certain items came within the Private Chattel Category or the Other Claims Category. To take a very obvious example, a car used by a doctor mainly for private purposes would be classed as a Private Chattel; but where it was shown that the car was mainly used for professional work, the category would be Other Claims. Such a simple item as ladies clothing might not be Private Chattels if the lady sold dresses. Thus the Commission have had to proceed with the assessment of Private Chattel Claims without a definite knowledge of what the total amount claimed was. This has made the declaration of dividends difficult.

The main difficulty, however, in dealing with Private Chattel claims arose from the fact that, with the exception of vehicles and boats, there was no direct proof of ownership. The Commission did not know what household gear a claimant possessed, and knew still less what items were lost in circumstances entitling him to War Damage. The Commission was forced to assume, from claimants status and family, that he was likely, or unlikely, to possess the articles for which he claimed; and had to decide in each case for or against loss on the balance of probabilities gathered by enquiry at the location of loss and among claimant's neighbours.

A questionnaire was composed which sought to obtain the necessary information about claimant's status, income, family, length of stay in Malaya, and the actions of himself and his dependents during the 1941/42 Emergency and subsequent Occupation. Care was taken to avoid what might be embarrassing questions. Indeed, this questionnaire would not have been sent to claimants if any other adequate alternative had been available. Many claimants complained that they had filled up a complicated claims form, and were now asked further difficult questions; but the fact was that the Claims Form had to be devised in 1947 before a War Damage Scheme took shape, and the framers of the form could not then foresee the complications attendant on the different categories imposed by the legislation, nor the restrictions laid down by the War Damage Scheme approved in 1950.

Loss of Private Chattels in conditions entitling the owner to War Damage had to be investigated in each case. Where some members of a claimant's family escaped from Malaya before the end of 1941, it was assumed that a quantity of Private Chattels was saved. As February, 1942, approached, less and less would be saved; by that time those who got away from Malaya usually did so with a suitcase or two. Again where claimant was left in the ownership or tenancy of his house during the occupation, it was assumed that he managed to save most of his Private Chattels, although thousands of claims were received claiming complete loss for no apparent reason. Frequently Private Chattels were sold to buy food during the occupation, and were subsequently claimed in War Damage.

The most frequently quoted cause of loss was looting, and the most frequent cause of looting was temporary abandonment. Householders with their families ran into the jungle to escape the Japanese. When these householders returned some days, or weeks, later, they found their houses broken and looted. The Japanese cannot be blamed for much of this looting. The Commission have been informed that most of it was due to local inhabitants.



The Commission considered whether a time limit should not be placed on abandonment of property. Beyond this limit the suggestion was that the Commission should not accept responsibility. However, investigation showed that abandonment of property was so general and the consequent looting so widespread that the decision to impose any time limit would operate harshly. Householders generally returned to their homes as soon as they could; where they did not do so early, there were reasons generally not discreditable to them.

Sales of various articles under circumstances claimed as duress were frequent. It was impossible to establish the quantity or quality of the article sold, or to assess the real value of the duress plea. It was decided therefore to reject all such claims.

The problem was how to assess Private Chattel claims in the most equitable manner having regard to the War Damage Legislation. Since the possession, or loss, of articles could not be proved, the usual procedure of assessment could not be followed. The Commission knew that many items had been claimed which claimant never possessed; that quality had been exaggerated; that quantity was seldom accurate; that ownership was often dubious; that loss took place frequently in a manner outside the definition of War Damage, and that values placed on items claimed were sometimes fantastic. These factors had to be taken into account when devising a scheme that would give a reasonably equitable distribution of the \$50 millions allotted to Private Chattels.

There was also the honest claimant who had built up a beautiful home in Malaya, and who possessed and lost irreplaceable articles. Could the Commission afford to rehabilitate him to anything like the degree of comfort he enjoyed pre-war? The answer was very definitely no; and so, while it was recognized that the items claimed were reasonable and within the definition of War Damage, the award had to be restricted to what was judged necessary to him on an austerity basis.

Before giving details of this Private Chattels Scheme, it is helpful to point out also that the Commission had to strike a balance between award and dividend. That is a most difficult thing to do. If the proposed Scheme produced awards that were too generous, the dividend would be disappointingly low. Claimants did not expect a 100 per cent. dividend; but they certainly did expect a dividend substantially above 50 per cent. The rule is, "severe awards, high dividends; generous awards, low dividends". The Commission hoped for a dividend of 75 per cent., but, of course, the desired result could not be achieved by trial and error, nor by adjustments as the work advanced. Firm and final principles had to be laid down at the start, with the best skill that could be brought to bear on this most complicated problem.

There were advocates for the generous award and consequent low dividend. This view was rejected because it gave greater scope to the dishonest claimant as against the opposite view of severe awards and high dividends. It was felt that the rule of strict austerity was the correct rule to apply in all Private Chattel Assessments; that is to say, within the limits of the claim, allow to claimant those items that were essential to his resuming his life either in Malaya or elsewhere on an austerity basis. Items not essential in this manner would be classed as luxuries and disallowed.

Private Chattel claims amounted to some \$150 millions, and this sum, on award, had to reduce to a figure somewhat above \$50 millions to produce an overall dividend approaching 100 per cent. All claims receiving an award



of \$350 or less were paid 100 per cent. as required by the Ordinances. Thus the final result would have to be expressed as an overall dividend ranging between two figures, the higher being 100 and the lower, ideally, about 75.

After much consideration it was decided to apply the income test to all Private Chattel claims, adjusted by allowances for wife, children or dependents. Distinctions of race and creed, though these could be effective, were ruled out as far too difficult to apply, and far too uncertain in result.

A table was prepared showing nine income groups ranging from under \$50 per month to over \$1,000 per month. These nine income groups were then sub-divided into:

- Single
- Married
- One child or dependent
- Two children or dependents
- More than two children or dependents.

The Private Chattels required by a person in each income group, on an austerity basis, were then set out and a value applied depending on June, 1941, prices. Such special items as radio sets, refrigerators, sewing machines, bicycles, etc., were given fixed prices, calculated as average second-hand values of such articles in June, 1941. All claims were expressed in 1941 values; and, as Restoration awards did not apply to Private Chattel claims, the resulting totals in the groups and sub-groups represented the cost of rehabilitating a person in that group, in respect of his Private Chattels, on an austerity basis.

No allowance was given for Jewellery, or for articles made of precious metals, though, if such articles were necessities, they would be allowed in a baser metal. Cars were allowed as necessities without question. Stamp and Coin collections were disallowed as not being necessities, and this applied also to pictures, though in this respect some may regard the decision as harsh. If the Commission had allowed pictures or antiques, it would have had to allow paintings and objects of considerable value, and it was not possible to say that these were necessities.

Pets were not allowed; and this decision extended to such animals as racehorses. Nevertheless, a trainer whose living depended on horses could claim for these in the Other Claims Category, but not under Private Chattels.

A general allowance was made for books, and was intended to cover a small classical library. An additional allowance was given for technical books kept in a person's home by a claimant whose living was gained from a profession requiring such books. Doctors, Accountants and Engineers are examples. Where professional books were kept at claimant's office or clinic, a claim could be made under Other Claims for these; for example, the Commission restored lawyers' libraries generously. Similarly with scientific instruments, where these could be shown as necessities to claimant. This rule applied also to Cameras and Photographic Equipment, though where these were claimed by persons whose living did not depend on them they were classed as luxuries and disallowed.

There were many claims for Sporting Equipment such as Golf Clubs, Tennis and Badminton racquets, Sailing Boats. The Commission gave this item careful consideration and decided that as exercise was essential to health in the tropics, some allowance for Sporting Equipment as a necessity should be made. This allowance is restricted; but it does offer considerable assistance to those who have to find again the gear necessary for their particular recreation.



Enough has been written to show the solution of the problem devised by the Commission. It is possible to write now, after the completion of Private Chattel assessments, that this method proved most efficient, and the Commission believes, equitable. The relatively few appeals against the awards under Private Chattels had for grounds of appeal such questions as the correct income group, the eligibility of claimant to an award for professional books, or scientific instruments, etc. There were a few who appealed generally against the award on the grounds that it was not generous enough. This plea was carefully considered by the Appeal Boards, but in no case was it judged necessary to amend the rule.

It will be obvious that this method of income group assessments had the advantage that:

- (a) it was a test that could be applied to all claimants;
- (b) it was outside all races and creeds;
- (c) it provided a fairly reasonable measuring rod of the household and personal gear required by claimants;
- (d) it was a uniform method of assessment that depended in the smallest possible degree on the Assessor's private attitude towards claimant;
- (e) it eliminated a large number of debatable questions between Assessors, Assessment Boards and Appeal Boards.

It is felt that no better scheme could have been devised to meet the peculiar and varied problems presented to the Commission by Private Chattel claims.

The first interim dividend declared on Private Chattel claims was 40 per cent. A second interim dividend of 20 per cent. has been declared. It is anticipated that there will be a third interim dividend and then a final. The computation of dividends on Private Chattel claims is complicated by two main factors, namely:

- (a) the payment of advances by the Board of Trade under the Far Eastern Extended Private Chattel Scheme, and
- (b) the payment of the initial \$350 (or less) on all claims.

It is not yet possible to calculate exactly the Commission's liability to claimants who are beneficiaries also under the Far Eastern Extended Private Chattel Scheme. The advances made under that Scheme are not based on losses of Private Chattels in Malaya, but on family considerations. For example, a married couple is eligible under the Scheme to an advance of £450 (\$3,856). But the couple may have a claim against the Commission on which an award of only \$3,000 has been made, in which case no payment by the Commission would be made. If the Commission's award were, say, \$7,000, then dividends at the usual rate would be payable on the \$3,144 balance. But this is not the only complication. The Board of Trade works closely with the Commission in respect of these claims and where, for example, the Board of Trade has approved an advance of £450 (\$3,856), and is advised by the Commission that dividend payments for say \$3,000 have already been made by the Commission in respect of a claim for Private Chattels, the Board of Trade pays the balance only; that is to say \$3,856—\$3,000 equals \$856. This advance of \$856 has then to be deducted by the Commission from future dividends payable to claimant. It will thus be seen that the present position is far too complicated to yield a firm figure on any attempted computation.



The second difficulty mentioned above has meant that all awards of \$350, or less, have been paid 100 per cent. If the award is \$400, the claimant receives the overall dividend on the \$400 less the \$350 initial payment already made. For example, if the overall dividend were 90 per cent., then claimant would receive 90 per cent. of \$400, which is \$360, less \$350 already received. This gives him the initial payment of \$350 plus dividends amounting to \$10.

This procedure is simple enough, but misunderstandings arise when it comes to be expressed in terms of dividends. Assuming, for the use of the argument, that total interim and final dividends amount to 90 per cent., then it is not correct to say that 90 per cent. has been paid on Private Chattel claims. It is correct to say that the overall dividend on Private Chattel claims ranges from 90 per cent. to 100 per cent. Also this varied dividend, which applies to many thousands of claims, introduces an uncertain factor that makes calculation of dividends most difficult. The Commission is forced to proceed with great caution when declaring an interim dividend; a mistake would be disastrous.

Another factor of lesser importance is working costs. These come out of the Fund, and so the amount available for distribution to Private Chattel claimants is not \$50 millions, but \$50 millions less working costs over the whole period of preparation for, and implementation of, the War Damage Scheme. The exact amount of these working costs will not be known until the last few months in the life of the Commission. Meantime the Commission meets this factor with an estimate.

A word should be recorded concerning claims from residents outside Malaya. These amounted to some \$54 millions, mainly Private Chattels. The original plan was to have these claims assessed at Singapore; but it was found that so many complications regarding them had developed, that they were brought to Headquarters and assessed under the personal supervision of the Superintending Assessor of Private Chattels. The complications referred to included death of claimant either before or after the submission of the claim, divorce or separation of claimant from marriage partner, absence of detail of loss or circumstances of loss, or where a widow was claiming for chattels she had not seen for some time before the war. These questions required expert treatment which the Superintending Assessor of Private Chattels was competent to give, and so they were cleared in a reasonably short time.

In order to assist claimants overseas to understand the methods of the Commission, two articles were published in "Malaya" and special attention was drawn to them by the courteous Secretary of the Association of British Malaya. These articles answered most of the main questions troubling overseas claimants.



**CHAPTER XXIII**  
**TIN MINING CLAIMS**

With the passing of the general War Damage Scheme through the Executive Councils in March, 1950, the way was open for discussion with representatives of the different interests concerning the method to be employed and the general rules to be followed when assessing their particular category of claim. Discussions were begun early with representatives of the Tin Mining Industry. Tin Mining claims had an allocation of \$85 millions.

It was assumed throughout these discussions that the general benefit to the Tin Mining Industry, and to the economy of Malaya, by the payment of War Damage compensation, would correspondingly benefit individual claimants. But there were cases where the emphasis on restoration bore hardly on claimants who suffered losses during the War Damage period, and who were no longer in a position to contribute towards the rehabilitation of their mines. It had to be borne in mind that any portion of the Fund devoted to such claims was a subtraction from the ability of the Fund to restore the industry to pre-war capacity.

Claim items submitted to the Commission showed a wide divergence in restoration importance. It was therefore necessary to grade these items according to the degree to which their restoration was essential to the industry. This grading was one of the most important subjects discussed with representatives of the Industry, and on which agreement was reached. The items were graded into three separate classes as shown below, and it was advocated by the Tin Industry that no priority within each class should be allowed.

**Class A. Restoration:**

- Dredges and Plant
- Pipe Lines
- Power Stations
- Prime Movers
- Gravel Pumps
- Rehabilitation Costs
- Cars and Lorries
- Buildings
- Roads and Dams
- Machinery Spares
- Survey Instruments
- Lode Mines
- General (applicable to restoration)
- Ancillary Equipment.

**Class B. Compensation:**

- Dredges and Plant
- Prime Movers
- Ancillary Equipment
- Buildings and Furniture
- Gravel Pumps
- Tin Ore Stocks at Mines
- Cars and Lorries
- General (non-restoration)
- Pipe Lines
- Power Stations
- Hydraulic Equipment
- Machinery and Spares
- Tramlines, etc.
- Lode Mines.





## Class C. Compensation:

Diminution of Ore Reserves  
 Compassionate payments to Staff  
 Loss of Income  
 Rubber cut out on Mining Land  
 Head Office Expenses  
 Secretarial Fees  
 Directors' Fees  
 Replacement of Plans

} except where part of cost of restoration.

Included also in Class A was the cost of opening up the mine or the cost of dewatering the paddocks, and, in addition, the restoration of stores and spares up to the limit carried by a mine in a normal year. Losses of stores and spares beyond this limit were considered as more proper to Class B.

It will be seen that Class A includes items that are to be restored, but with the restrictions:

- (a) that in each case the Commission is satisfied from a survey of ore reserves that restoration is justified;
- (b) that claimant is in a position to carry out the restoration proposals of the Commission within a reasonable time;
- (c) that rehabilitation of the mine beyond the actual restoration required by the Commission will be a charge on claimant.

Class B represents items that would be paid not a Restoration but an Outright Award. In this class are substantial sums for obsolete or worn out plant, and for items that had approached the end of their effective lives before the arrival of the Japanese; also there are substantial quantities of useful machinery. Restoration of all these items was judged not practicable for such reasons as the exhaustion of ore reserves, or the transfer of property.

Class C. The items in this class made up a very substantial sum, especially items for loss of ore reserves which were estimated at \$75 millions. If this were met, even in part, the direct contribution of the Fund towards restoration would be reduced too much. Apart from its lesser importance as compared with items in Class A, there is the fact that the assessment of claims for loss of ore reserves would be most difficult, if not impossible, to carry out.

Assessment of items in Class A were, in accordance with the general War Damage Scheme, on a post-war cost of work basis. Assessment of claim items in Class B were on the value of the item in 1941. It will thus be seen that on this ground alone items in Class A were greatly favoured as compared with items in Class B.

The representatives of the Tin Industry proposed a further step in respect of items in Class A. They requested that depreciation should *not* be taken into account when computing the restoration costs of such items in Class A as Dredges, Pipe Lines, Gravel Pumps, Buildings, Machinery, etc. The argument supporting this request was that this equipment is kept in efficient use by continuous repair and replacement and/or rebuilding for the full period that it is required for mining purposes.

Although this proposal was a departure from normal accounting practice, it was considered by the Commission that the wishes of the Tin Industry, as expressed unanimously by its representatives, both European and Chinese, should be respected. The result was to increase the amount of the Fund going towards the restoration of essential heavy equipment. There was, in consequence, less for items in Class B. It was decided by the Commission, and agreed by the Tin Industry, that the non-depreciation method of assessment could not conveniently be applied to vehicles, which have a relatively short, and a relatively hard, life on a Tin Mine.



Much discussion centred on the necessity to include in restoration costs such overhead charges as Head Office expenses, Secretarial Fees, Directors' Fees and Replacement of Plans where these were clearly directly attributable to restoration. It was agreed that this should be done, but that where such expenses could not be related to direct restoration work, they would normally be considered in Class C.

Tin Ore in stock; that is to say, ore that had been recovered from the mine and was awaiting transport to the smelters at the time of Japanese entry, was in a different class from ore reserves depleted by the Japanese. Tin Ore in stock required money to produce; but there was some doubt whether the quantities claimed as lost through War Damage could be effectively checked. The Commission agreed, with some hesitation, to allow this item in Class B; although it was not clear whether its assessment with any approach to accuracy was practicable. The results did not bear out these doubts, and the item has remained in Class B.

The representatives of the Tin Industry urged the necessity of going forward with the assessment of Class A items, and to apply whatever residue of the \$85 millions existed, after satisfaction of claims for these items, to those of Class B.

It was estimated that claims for Class A items amounted to some \$115 millions, Class B items to some \$43.5 millions, and Class C items to some \$81.5 millions. It was quite probable, in face of these figures, that the problem might not resolve itself into assessing the claims in Class A and applying the residue to Classes B and C, but rather to satisfying only Class A claims. If this proved correct, the Commission had to decide how Class C was to be assessed. The problem applied in a lesser degree to Class B.

The Commission took the step of accepting at once that there would be nothing for items in Class C. Claims in this Class were assessed, but were not given an award by the Assessment Board. Claims in Class B were assessed for Outright Award. In the normal course, therefore, the total assessed values in Classes A and B would be taken as the assessed value of all Tin Mining Claims, and the amount available in the Fund would be expressed as a percentage of this total assessed value to obtain the dividend applicable to Tin Mining Claims.

It will be obvious that, excepting on an equivalent basis, it was most difficult to collate assessments in Class A with assessments in Class B, if the total value of Class A assessments amounted to a figure less than the sum allotted in the Fund for Tin Mining Claims. If Class B assessments added to Class A assessments gave a figure substantially above \$85 millions, the result would be that restoration awards (Class A) would have to be abated in order to pay Outright awards (Class B) on a *pro rata* basis. But the General War Damage Scheme emphasizes restoration as its prime purpose; and, to achieve this purpose, it was clearly necessary to abate Class B assessments in such manner as to prevent the overall dividend falling below an agreed figure, say, some figure between 90 and 100. This figure would then be the dividend applicable to Tin Mining Claims.

The Commission decided to abate Class B assessments by one third. It decided also that payments to claimants be governed by the restoration work actually done, or about to be done. It was recognized that in some instances restoration work was dependent on the acquisition by claimant of mining leases, and a time limit should be applied to give claimant opportunity to acquire these leases and, at the same time, limit the delay to final payments on other Tin Mining claims. The Tin Mining Industry suggested the end of 1951 as this limit, but circumstances, not clearly foreseen at the time, necessitated an extension to this time limit.



It was found that some claimants had been prevented from restoring their property by a refusal by the Police to permit work in the area concerned for security reasons. It was also found that Tin Mining Equipment was being obtained much more slowly than had been anticipated. Again a number of claimants who had hitherto stated that they would not restore had now come forward stating that they were prepared to restore and requested an award in Class A for their essential equipment.

It was within the discretion of the Commission to retain or extend the original time limit; and, in considering what should best be done, they were influenced by the thought that it was in the general economic interests of the country that as many mines as possible should be restored. Towards this end it was desirable to place as few restrictions as possible in the way of such restoration. The time limit was extended until the end of February, 1952.

When the Tin Mining Scheme was approved by the Commission the figure of \$208 millions had increased to \$240 millions. No attention was, at the time, drawn to this increase in claims of \$32 millions because it was believed that the high dividend originally anticipated for Tin Mining Claims could still be achieved. In fact the Secretary of State was advised that it was anticipated that the dividend on Tin Mining Claims would be very high.

When the Tin Mining Industry became acquainted with the Scheme, amended claims, in the form of questionnaire figures were sent in to the Commission, and a revision of total claims made by the Commission then revealed a figure of some \$260 millions. These increases were made up of: (a) increased labour cost; (b) increased material cost; (c) items overlooked in original claims, and they were fairly constant in relation to the original claim.

While it was not possible for the Commission to deny claimants the right to make these amendments, it was realized that the total increase had upset the original computation on which was based the \$85 millions allocated by the Ordinance, and the anticipation that the dividend on Tin Mining claims would be very high.

It was clear to the Commission that a revised computation of the complete dividend on Tin Mining claims was necessary, and that this computation should be made in a manner that would eliminate the new factors that had intruded since the Ordinance was passed. It was certain that Class A claims would assess for a greater sum than \$85 millions, and so such awards as would be made in Class B when added to Class A, in order to obtain the total amount on which to pay the Tin dividend, would have the effect of lowering the restoration dividend in order to pay such outright compensation as had been allowed in Class B.

Class B claims were largely plant that would not again be used; that is to say, derelict equipment that would not contribute to the restoration of the Tin Mining Industry. It is true that the loss of this equipment was a War Damage loss, and a serious loss to claimants; but, from the point of view of the economic prosperity of the country, it could not be classed with the items in Class A.

After considerable discussion it was decided that the figure in Class A and the figure in Class B would each be multiplied by the fraction  $208/260$  which is equivalent to  $.8$ . The resultant figure in Class B would then be abated by  $1/3$  before being added to the resultant figure in Class A to obtain the Award under A and B.

It may seem now that this was a complicated procedure, but actually it worked very simply and exceedingly well in practice, and it has meant that Tin Mining claims will reach a dividend figure approaching the level that had been anticipated when the War Damage Legislation was drawn up.



A first interim dividend of 60 per cent. of the Award was declared in November, 1950. In February, 1952, the interim payment on awards was increased to 75 per cent. All claimants who had received the first payment of 60 per cent. received an additional 15 per cent. and such claimants as accepted their awards after the increase in the interim dividend were eligible for the total dividends to date of 75 per cent. of the amount of the Award.

Tin Mining claims included 129 Dredges together with workshops, machinery, stores, camp buildings and surface works. In addition there were in some cases Power Stations for supply of electric power, and 1,130 mines of other types.

Dredges ranged from the most modern types capable of digging to depths of 130 feet and more to small and obsolete types with a maximum digging depth of 25 feet. The monthly dredge capacities varied from 450,000 cubic yards to around 50,000 cubic yards. The treatment schemes were equally varied all known types of jigs being employed; whilst some dredges were fitted with palongs, others had clay treatment plants in conjunction with either palongs or jigs. There were dredges driven by steam, with coal, wood or oil fired boilers; others were powered by diesel engines, whilst others used electric motors.

Some dredges were worked by the Japanese and left in positions far from a working face; some were left at a working face; some had to work through Japanese tailings to reach an economic course. There were a few cases where river deviations were necessary to work payable lands. Some dredges had to be dismantled and transported from where they were left by the Japanese to other property where they were re-assembled.

Cases arose where the dredge was so badly damaged and the volume of reserves left after Japanese workings so reduced, that restoration to 1941 level was uneconomic. In those cases alternative schemes had to be considered, and where the remaining reserves could be worked economically by some other means (such as Gravel Pumps or hydraulic) a reasonable basis of costs for the substituted scheme had to be computed.

In all cases where restoration awards were claimed, productive capacity post-war had to be related to 1941 productive capacity. The respective plants also had to be carefully compared to ensure that the War Damage Fund would not bear the cost of incorporation in the new Dredge or plant of any improvements or additions. The multiplicity of factors required that each Dredging unit had to be carefully considered on its own special merits, within the general principles applied to claims.

It may be thought that the variety of problems to be solved was beyond the scope of the one Assessor who was responsible for Dredging assessments during most of the period when assessments were made. It is a tribute to the Assessor's ability that in only a very few instances did the dredging experts sitting on the Tin Panel find it necessary to make major alterations to his proposed assessments.

The diversity of problems encountered in assessing mines of other types was certainly no less than in the Dredge claims. In addition to the ordinary Gravel Pump mines spread over the Federation, claims covered tiny lampanning outfits such as those along the Malacca foreshore; lode mines from the famous Pahang mine to the small cave mines in Perlis; huge opencast mines in Selangor, smaller ones in Negri Sembilan, Kedah and Perlis; hydraulic mines in Perak and Perlis, and Gravel Pump mines spread over seven States and the Settlement of Malacca. The assessment of these units involved the



assessment also of Pumping Stations, several miles of huge 36" and 40" pipe lines stretching through jungle, and of isolated Power Plants. There were numerous variations in schemes, in some of which excavators, mills and extraction plants were employed.

The claimants included large European owned companies, Chinese multiple mine owners, and lone lampan miners. In assessing these claims considerable difficulty was encountered in obtaining reliable evidence of the plant and materials on the sites at the time of evacuation in December, 1941, or January, 1942. Valuable assistance was rendered by the officers of the Mines Department, and the Chinese Tin Mines Rehabilitation Loans Board. Even so, the investigators and Assessors found it often necessary to obtain evidence by interviews with former employees of claimants, penghulus, local officials and, of course, the claimants themselves, in addition to physical inspection of the mine. In carrying out their duties assessors and investigators travelled through territories known to be bandit infested. The Police would not permit some sites to be visited and, in such cases, assessment had to be made from information or evidence gathered from other sources.

The Tin Panel members who sat on the assessment of these claims were selected for their knowledge of the areas in which the mines were situated and their experience in the type of mining conducted. The availability of such localised and specialised knowledge of experts in the Industry was invaluable in the assessment of all types of Tin Mining claims. The Commission remains under a debt to these gentlemen for their contribution to the work of assessment.

By the 31st December, 1952, assessment had been completed, and awards made, on claims covering 1,232 mining units of all types, including associated Power Stations and installations in respect of which the amount claimed exceeded \$262 millions. The awards on these claims aggregated \$87.2 millions. Final assessment of all tin mining claims was completed in February, 1953. The grand total claimed was \$280.2 millions spread over 1,265 mining units.

The Tin Panel held 139 meetings, of which 68 meetings were held in Kuala Lumpur and 71 meetings in Ipoh.

Up to the 31st December, 1952, appeals had been lodged in twenty-two cases. Of these, two appeals were allowed in full, nine were allowed in part, five were ordered to be re-assessed in view of evidence submitted to the Appeal Board, five were rejected in total, and one is still awaiting decision. The five claims ordered to be re-assessed have been completed and the new awards accepted.



## CHAPTER XXIV

## OTHER CLAIMS CATEGORY

The Other Claims Category includes claims in respect of Businesses, wholesale and retail; Agriculture; Tea; Palm Oil; Coconuts; Factories; Engineering undertakings; Buildings; Public Utilities; Watercraft; and Mines other than Tin. It will be clear that although this constitutes one category in the Ordinance, it had to be split up into a number of parts for purposes of assessment and award.

Following the general principle of clearing up the small man's claim at the earliest possible date, attention was centred in the first instance on small claims within the Category. These were claims of traders for general goods, hardware, tobacco, spectacles, medicines, liquors, goldsmiths' ware, dealers goods, coffee shop goods, drapers goods, bicycles and shoes. These small claims ranged from over \$80,000 for goldsmiths' shops down to about \$1,000 for dealers in tobacco leaves. The one common factor was that there was no proof of stocks, though it was possible that such proof might be forthcoming on stricter enquiry; but a first survey found that this type of claim was generally unsupported by documentary proof. The first main obstacle, therefore, in dealing with these claims was to provide a measure of determining quantities.

Proof of destruction by fire and bomb was available in most cases. Proof of looting was available. But even if looting were proved, there remained the further question how much of the total stock was looted. Here again the problem was quantity. There were also a number of cases of simple abandonment where looting had to be presumed. This question of abandonment of stocks was considered specially by the Commission, and a decision was made that no penalty should be imposed on a claimant who abandoned his goods in fear of the enemy.

There were many cases where insurance should have been taken out under the War Risks (Goods) Insurance Enactment, and where it was not taken out. An enormous variety of excuses was offered for this failure, and it was necessary to consider these excuses and to select the few that would be acceptable to the Commission. Provided, therefore, that the reason given for not taking out War Risks (Goods) Insurance was one of the acceptable excuses, and that there was some proof that claimant's statement was true, the Commission accepted that claimant's effort to insure his goods was frustrated.

Besides lack of proof of quantity in this type of claim there were other unsatisfactory factors. It was extremely difficult to establish ownership of goods because the seller of goods was frequently not the owner at all. He was merely an agent selling goods for some wholesale firm or even for some other retailer. Again, proof of loss was most difficult to obtain. It was quite obvious that a demand for tinned goods, clothing and other items making up this class was very keen after the entry of the Japanese, and so these goods were sold off at very advantageous prices. Where loss was claimed, in many cases the goods had simply disappeared by the ordinary process of selling either over or under the counter. If the Japanese had generally confiscated goods of a certain type, the Commission would have had a reasonable line to go on, but the Japanese generally paid for goods they took, and loss, where it could be effectively proved, was usually due to fire or the looting by neighbours, and soldiers in retreat.



The Commission had to decide what general rules could be applied in assessing these claims, and by what means the normal items in them could be distinguished, or at least computed with reasonable accuracy. It was quite clear that many claims were grossly exaggerated, and it was quite clear also that there were a number of false claims.

The first test applied was whether the claimant should have insured under the War Risks (Goods) Insurance Scheme, and whether he actually did insure, or had an acceptable excuse for non-insurance. Generally this test ruled out all trading goods claimed North of Johore amounting to \$10,000 and upwards, and all such claims in Johore and Singapore amounting to \$8,000 and upwards. The simple position concerning such claims was that the claimant either insured, in which case he had a claim in the War Risks (Goods) Insurance Scheme which had either been paid or rejected, or he did not insure in which case he must have an acceptable excuse or be ruled out of War Damage. War Damage, therefore, was concerned only if:

- (a) The War Risks (Goods) Insurance Board had rejected the claim on the ground that the loss was not covered by the policy.
- (b) The excuse for non-insurance was acceptable.
- (c) The excuse for non-insurance was unacceptable, in which case the claim would be disallowed by the Assessment Board.

Where the claim fell under (a) above it was probable that there would be reasonable proof of quantity lost. The amount for which the goods were insured would be a most valuable guide. Where the claim fell under (b) above proof would be somewhat difficult, but then such cases were very few.

The main problem, therefore, was concerned with claims for an amount not exceeding \$10,000 North of Johore, and not exceeding \$8,000 in Johore and Singapore. After considerable discussion the following proposal was adopted where stock books, or books of accounts, could not be produced:

- (a) The Assessor asked for proof of tenancy or ownership of the premises in which goods were housed at the time of loss. If adequate proof of tenancy or ownership was not forthcoming, the Assessor recommended the rejection of the claim because it would be a waste of time to pursue the matter further.
- (b) If proof in (a) was forthcoming the Assessor asked for proof of ownership of the goods lost, or failing this, proof that claimant was a trader in this particular class of goods.
- (c) If (a) and (b) were proved, the Assessor sought proof of actual loss. This could be assumed in cases of total destruction by fire or bomb. Looting cases were more suspect; but there was evidence of a general nature that there had been looting in certain States or areas.
- (d) The Assessor was now faced with his main problem; namely, to obtain proof of quantity lost. He explored the following clues:
  - (i) He asked for Bankers Statements, and if these were available they gave him an idea of the extent of claimant's business. Three months receipts gave him the measure of the usual value of the stock-in-trade, but this, of course, varied with the type of business.
  - (ii) Enquiry from wholesale dealers from whom claimant stated he made purchases, gave the Assessor a measure of the volume of trade carried on.



- (iii) If claimant was now carrying on the same business, and especially if he was occupying the same premises, his present stocks furnished a guide to what he probably had at the time of loss.
- (iv) If the above clues failed to give the Assessor the measure of quantity he required, then he used a table drawn up carefully by the Commission and relating amount claimed to what was probably the true value of the goods in 1941. The point about this table was that it had to be used only as a last resort if all other means failed to prove quantity. In practice this approach to the problem proved workable, and claims which in the ordinary course presented an enigma, were assessed with reasonable speed and, it is believed, with a reasonable approach to accuracy.

### OIL PALMS, COCONUTS AND TEA

The Commission's approach to claims from these three industries was generally along the same lines. There were, of course, divergencies, but these will be pointed out where they occur.

At the end of 1941 there were in the Federation 54 Oil Palm Estates covering an area of 79,700 acres. The Commission received claims in respect of 46,393 acres. These figures will give some measure of the damage suffered by this industry.

Records show that there were 50 Tea Estates in Malaya at the end of 1941, giving a planted area of 9,413 acres. Claims have been received in respect of 7,980 acres.

There were 510,874 acres of Coconuts in the Federation at the end of 1941. Of these 92,496 acres were owned by 96 Estates of more than 100 acres, and 418,328 acres was the aggregate of holdings of less than 100 acres.

These figures do not take into account holdings of less than 20 acres. Estates of less than 20 acres were assessed, for sake of convenience, as smallholders.

The amounts claimed from these three industries were as follows:

Oil Palms	...	...	...	...	...	...	\$15,108,619
Tea	...	...	...	...	...	...	2,861,526
Coconuts	...	...	...	...	...	...	11,174,385
Total	...	...	...	...	...	...	\$29,144,530

These claims were based on values at the time of loss, or damage, in 1941. The Commission estimated that the amount required for restoration; that is to say, where post-war cost was applied instead of pre-war cost, would be a sum of 2.75 times pre-war cost.

The main item in all these claims was damage or loss to the trees. In addition, the claims divided themselves into the following essential factors on the Estates:

- (1) Buildings damaged or destroyed.
- (2) Machinery and Factory Equipment damaged, destroyed, or removed.
- (3) Vehicular Transport destroyed or removed.





- (4) Water supplies.
- (5) Main Bridges and Crop Transport.
- (6) Water Gates and Bunds.
- (7) Crop Transport.
- (8) Crop Rehabilitation.
- (9) Pre-pruning.
- (10) Laboratory Equipment destroyed or removed.

For all these factors, and particularly for loss of trees, the Commission decided to give Restoration Awards where the conditions imposed by the Commission were fulfilled.

The Commission also decided to give Outright Awards for austerity clearing for access to harvesting and for stocks (Palm Oil, Copra, Tea, etc.) seized or destroyed *in situ*.

There was a consistent relationship in these industries between the amounts claimed in respect of trees destroyed and the inclusive total from each industry. Against 100 per cent. claimed by each industry the claim in respect of trees destroyed was as follows:

Oil Palms	...	...	...	...	...	37.1 per cent.
Coconuts	...	...	...	...	...	42.6 "
Tea	...	...	...	...	...	48.5 "

The almost identical stand probably accounts for the approximation between Oil Palm and Coconuts, whilst the very high planting stand on Tea Estates is responsible for the greater loss in the Tea Industry.

Whilst there were claims for small numbers of Coconut trees in low lying areas lost by flooding, and minor losses of Tea bushes caused by "slippings", trees destroyed in these three industries were generally *en bloc* losses and could be attributed to:

- (1) Destruction by the Japanese or their Agents; and
- (2) Flooding.

For scattered palms lost by flooding an Award of \$3 per tree (\$150 per acre) was deemed reasonable, and for Tea bushes lost by "slippings", the Award was 29 cents per bush for Highland Estates and 35 cents per bush for Lowlands Estates. For the restoration of immature Tea bushes in abandoned areas, the basic Award was \$165 per acre. Areas cut out *en bloc* from the main replanting issue were given a scale of depreciation for trees and bushes so lost or destroyed, and the maximum costs recognised by the Commission were as follows:

	OILPALMS		COCONUTS		TEA	
	per acre		per acre		HIGHLANDS per acre	LOWLANDS per acre
	\$		\$		\$	\$
1st year	250	...	225	...	500	555
2nd "	70	...	80	...	150	177
3rd "	65	...	70	...	100	157
4th "	50	...	60	...	100	156
5th "	50	...	50	...	—	—

These costs included material and labour and were determined after consultation with representatives of the industries concerned. They were, however, subject to the proviso covering also the assessment of Rubber which states: "in no case will the Commission pay more than these maxima. Payments below these maxima will be related to the actual direct cost incurred by claimant, having regard to the district and circumstances."



The Commission did not insist upon restoration of the total area under claim, but they did demand that such an area would be restored as was considered equitable both in relation to the Award made and to the table of replanting costs. Also the Commission did not insist upon restoration being effected upon the actual site of loss, since there were cases in which this was impracticable; besides there were cases also in which replacement had already been made on a different site. The Commission, however, did insist that, where a different site was used, it was a site that had not previously carried the same type of crop.

No investigation was made until claimants had furnished a plan of the area cut out or lost. Such plan had to be drawn up by a recognised Surveyor and approved by the Government Survey Department. It had to demarcate the areas under claim and thus had to be co-related to the official estate plan. Where, however, the area under claim was less than three acres, or was a composite of two or more lots of less than three acres, a plan drawn up by a member of the estate staff was accepted.

The restoration of essential buildings was the same as that adopted by the Rubber Planting Industry, and which will be described under that heading. The restoration of machinery and factory equipment was important for Oil Palms and Tea, but of relatively less importance for Coconuts. The essential machinery and factory equipment for an Oil Palm Plantation is an extensive layout, and includes:

- (a) Oil Plant—That is to say, Sterilisers, Strippers, Digesters, Oil Extractors and Clarification Plant.
- (b) Kernel Plant—That is, Conveyors, Depulpers, Nut Silos, Nut Crackers, Separators and Dryers.
- (c) Power Plant—Engines, Generators, Switch Bolts, Boilers and Furnaces.
- (d) Bulking Plant—Storage Tanks for the receipt of Oil from the Palm.
- (e) Workshop Equipment.

It will thus be seen that claims from Oil Palm Estates presented a very complex problem to the Commission and one to which a good deal of expert knowledge had to be applied.

Essential transport included, in addition to motor vehicles, such items as locomotives, bogies, trucks and trailers, as well as tractors and road-rollers.

Essential Water Supplies—This item covered factories, hospitals and lines, but excluded bungalows and other buildings. It had to include boilers and furnaces, water tower, tanks, pumps and pipe lines, and other essential equipment for water installation in estate sidings.

Under the head of Crop Transport, we get items that should not be confused with vehicular transport, nor is there any connection with such items as repairs to roads. Awards granted under this item were in respect of essential repairs to such sections of the estate road system only as were essential for the conveyance of crops to factories. The nature of the crops from Oil Palm, Coconut and Tea Estates precluded them from being delivered to factories by hand, so that quite apart from the use of essential vehicles, the medium of transport had also to be taken into consideration. These media included sections of roads on Oil Palm Estates, and in the case of Tea Estates, sections of roads or subsidiary ropeways. They also included light railway tracks.



Under the head of Crop Rehabilitation a number of problems arose. Awards in respect of Crop Rehabilitation were neither an allowance for routine fertilising nor for the loss of benefits of pre-war fertilising. They were intended as a form of compensation to meet the post-war cost of intensive fertilising essential for the restoration of habitual production. From this point of view Rubber suffered not at all, but other industries have incurred heavy expenditure on fertilising in order to reach 1941 standard crops. Coconuts for example, after five years of heavy fertilising costs, have not yet attained their pre-war crops. Tea did not suffer so heavily, but the position regarding Oil Palms is analogous to Coconuts. Tea Estates incurred special expenditure for fertilising. After pre-pruning it was necessary to maintain the area for six months before a crop could be harvested, and in the case of Lowland Estates the expenditure incurred was \$27 per acre, while similar work on Highland Estates cost \$60 per acre. The Highland Estates, however, incurred no expenditure on fertiliser.

Pre-pruning is quite distinct from austerity clearing for harvesting, which is an Award for removal of excess undergrowth. Pre-pruning was an essential operation in order to contact not the tree but the fruit. Numerous fronds (sometimes as many as 100 per tree) had to be removed from each Palm tree before the fruit could be garnered, while Tea bushes had become so woody from neglect that abandonment was almost the only alternative to pre-pruning.

In respect of Laboratory Equipment, the Commission gave an Award for this item to Oil Palm Estates only. It formed an integral part of the Estate equipment, and replacement of the essential minimum received an Award ranking for payment *pari passu* with other items.

An Award of \$8 per acre was allowed for Austerity Clearing for harvesting. This followed the decision in respect of Rubber Estates. On Rubber Estates rentices three feet wide were adequate for the purpose of tapping. In the case of Oil Palms and Coconuts it was necessary to cut low the whole area in order to recover fallen fruit, a considerable percentage of which would otherwise have been lost.

Awards made for stocks lost on estates may, for purposes of description, be divided into three classes:

- (a) Destroyed for denial to the enemy;
- (b) Seized; and
- (c) Looted.

Under (a) if the stocks were insured under the War Risks (Goods) Insurance Scheme and denied, the claim lay against the War Risks (Goods) Insurance Fund. Under (b), if the stocks were insured under the War Risks (Goods) Insurance Fund and seizure by the enemy was proved, an Award was made from War Damage in the normal manner. Looted stocks were similarly treated to stocks seized, except that Awards did not qualify for the seizure dividend, but for the ordinary dividend in the category of claim to which they belonged.

### ORCHARDS

In dealing with claims for orchards the Commission had to examine closely the question of land, and land titles.



**Lands:**

- (a) The compensatory value of orchards, fruit trees and crops had to be co-related to the value of the lands on which they were grown. It was found that the values placed on crops by Land Offices varied greatly from State to State, and even from district to district. An attempt had, therefore, to be made to establish some sort of uniform value for the various trees and crops coming under this head.
- (b) The uses to which land may be put by the owners depends upon the special conditions imposed by the Titles. Land may be granted for various reasons; for purposes of building; for mining purposes; for the cultivation of certain specified crops. Sometimes titles even prohibit the planting of specific crops, and this prohibition was fundamentally important when considering claims for trees and crops.

Among the Titles under which land may be held are the following:

- (1) Malay Grants.
- (2) Malay Deeds of Sale.
- (3) Grants.
- (4) Certificates of Titles.
- (5) Entry in Mukim Register.
- (6) Agricultural Leases.
- (7) Leases.
- (8) Mining Leases.
- (9) Mining Certificates.

The privileges enjoyed by owners of land held under the above Titles vary considerably. Items Nos. 1, 2, 3 and 4 are Titles held in perpetuity; but these, as with other Titles, are subject to the special conditions imposed upon them.

In addition to the Titles listed above, land can also be held under:

- (1) Approved Occupations, which are provisional Titles in respect of land for which survey and registration of Titles are in course of progress; and
- (2) Temporary Occupation Licences, which are documents covering privilege but no rights. A T.O.L. is issued for a period of one year and expires on the 31st December of each year. By virtue of the conditions of this licence an occupier of land held under a T.O.L. is not legally entitled to any compensation for loss of crop or buildings erected thereon; but it has been the practice of Government to grant some *ex gratia* payments in cases of hardship when the occupier has been ordered by Government to vacate the land.

For the purposes of War Damage compensation the Commission decided to follow the Government practice of extending to holders of T.O.L. *ex gratia* payments in case of hardship. Hardship in this case being loss or damage by act of war. It is important to record, however, that whilst it is possible that permanent crops or buildings may have been established under the pseudo-title, "Approved Occupations", claims could not be admitted from holders of T.O.L. for either permanent crops or permanent buildings.

Thus no payments could be made for crops produced from land to which claimants had no legal entitlement (holdings under Approved Occupation and T.O.L. excepted). This included Government land and reserves; riparian reserves; foreshores; Municipal land, and also land of which some claimants advanced as a basis of ownership some unwritten law of contiguity or abutment.



Even where claimants could prove entitlement to land, War Damage payments could not be made in respect of:

- (1) crops which were not covered by entitlement; and especially
- (2) crops grown in defiance of restrictions imposed by the Title.

Moreover, where crops under claim were covered by entitlement, the Commission could not pay compensation for loss of Bamboo, Nipah, Nibong, or Sago, where such trees were adventitious; because no material or appreciable loss was sustained by the lopping of such trees. Normally such lopping or pruning was advantageous. An exception to this rule had carefully to be made for sago where, although it may have been grown in defiance of restrictions, it was grown commercially for its attaps. Such cases, however, were rare and were easily disclosed by investigation.

No compensation was paid for the loss of jungle trees.

Where crops and trees were grown within the rights of Land Titles, and were lost by an act of war, claims were accepted by the Commission for consideration, and Awards either Outright or Restoration were made.

The following Outright Awards were made for different types of trees:

	\$	c.	
Ara	11	00	per tree
Bachang (Horse Mango)	4	00	" "
Belimbing Besi and Pupoi	1	50	" "
Belimbing Manis	2	50	" "
Bidara	1	00	" "
Chempadak	5	00	" "
Chiku (all species)	6	00	" "
Cinnamon	35	00	" "
Coconut	5	00	" "
Duku	3	00	" "
Durian	20	00	" "
Jambu Ayer	2	50	" "
Jambu Biji	1	50	" "
Jambu Bol (Guava)	2	50	" "
Jering	2	00	" "
Kabong	1	50	" "
Kapok	5	00	" "
Kundangan	8	00	" "
Kunie	7	00	" "
Langsat	7	00	" "
Limau Abong	3	00	" "
Limau China	10	00	" "
Limau Kadingsa (Pomelo)	10	00	" "
Limau Nipis	6	00	" "
Mangga Mempelam	6	00	" "
Manggis	10	00	" "
Nangka (Jack)	6	00	" "
Papaya	2	00	" "
Pauh	2	00	" "
Pinang	1	00	" "
Pisang	1	00	" "
Pulasan	1	50	" "
Rambai	4	00	" "
Rambutan	8	00	" "
Rembia	3	00	" "
Rumbai	1	50	" "
Nipah	50	00	" "



The prices laid down above were not applicable to all claims because these prices were based on capital values and not revenue values. The Commission accepted that the return from capital invested in Agriculture was about 12 per cent. (or 8 years purchase) and the schedule of prices was compiled on this basis. There are, however, regional conditions and differences which cannot be covered by a static price. These conditions and differences had to be taken into account when making assessments.

The prices in the list were maximum prices and were applicable in the main to trees and crops that were in reasonably good condition at the time of loss and had received normal maintenance. Where, however, it was established that ground was poor due to neglect, poor soil conditions or lack of proper cultivation, smaller Awards were made.

The Commission considered it highly desirable, in the interests of the economy of the country, that orchards should be restored. One difficulty, however, was that wide variation in land values obtains in different parts of the country, and it was impracticable to lay down a differential schedule covering Restoration of the various trees and crops. It was, therefore, decided that the schedule worked out for *maximum* Outright Awards should be the basic *minimum* for Restoration Awards, and that such adjustments as were necessary to meet the varying conditions in different localities should be made by the Assessor.

### PINEAPPLES

The Pineapple Industry claimed the special attention of the Commission, and a great deal of time and much thought were given to the various problems presented by it. There were at the end of 1941 some 60,000 acres under Pineapples in Malaya and Singapore. Of these about 28,000 acres were owned by smallholders and 32,000 acres belonged to large vested interests. After some discussion with the representatives of the Industry, it was agreed that the restoration of the Industry as a whole might be made under aegis of the Central Board of Pineapple Packers, Malaya.

Pineapple claims qualified for both Outright and Restoration Awards, according to the circumstances. Outright Awards varied between \$90 and \$107 per acre. This is a relatively low Award, being no more than one-fifth or one-sixth of a comparable Restoration Award. Pineapples were penalised because they were in the nature of a relatively non-permanent crop.

The Restoration Award in Pineapples was normally \$640 per acre. This Award was computed to cover the capital expenditure of opening up ground for Pineapples. This capital expenditure was made up of expenses for felling, logging, clearing, burning, draining, weeding and for buildings, suckers, tools, etc. Although this Restoration Award appears high, it was, in fact, insufficient to cover the programme that had to be carried out.

Pineapples before the war were planted in friable soil. This soil could be worked for a maximum of twelve years with suitable fertilisation at the sixth and ninth year. At the end of the twelve years the soil was comparable to tin tailings and useless for Pineapples or for any other crop.

It was discovered during the war years that by using peaty soil Pineapples could be grown 20 years without fertilisation. At the end of the war, therefore, the Government decided that no more new planting of Pineapples would be allowed in friable soil. New Pineapple planting, therefore, was relegated to an area of about 50,000 acres between Pontian and Benut, which was in fact virgin jungle. The problem before the Commission was to compute a suitable Restoration Award per acre for clearing this ground and



bringing it into cultivation. It would have been absurd on the Commission's part to compute a Restoration Award on the assumption that the replanting would be done in friable soil, even though such Restoration Award would have been much less than \$640 per acre.

The stand for Pineapples is between 4,000 and 7,000 per acre, and after the first crop a new crop is produced every six to seven months. It will thus be seen that the original capital expenditure of \$640 per acre can be both profitable and economical.

In reaching the Awards approved for Pineapples, protracted discussions took place between the nominees of the Central Board of Malayan Packers and Growers on the one hand and the Agricultural expert of the Commission on the other hand.

It will be appreciated from the above that the Commission had to decide whether Awards for Pineapples should be computed on the basis of replanting in the old pineapple areas. The restoration costs on this basis would naturally be much lower than those required for clearing virgin jungle from the new areas and opening up the land. It was decided that actual restoration costs should be followed so far as they could be classed as strictly necessary to the work to be done in all cases. The photographs of pineapple cultivation included in this Report will convey some idea of the immense task undertaken by pineapple growers. The Commission has granted Restoration Awards to the pineapple industry amounting to over \$13 millions.

### LIVESTOCK

It is mentioned elsewhere in this Report that there was a considerable destruction of livestock during the occupation period. A measure of that destruction is given by the Veterinary Department, Federation of Malaya, Report for 1948 which states:

	1939	1947
Buffaloes	217,000	189,000
Oxen	287,000	236,000
Goats	300,000	152,600
Swine	599,400	299,600

The drop in livestock indicated above is not altogether due to acts of War Damage. Many owners killed their livestock to obtain food for themselves through the lean years of 1942/45; there was probably an abnormal number of deaths from causes such as starvation and lack of proper care, and there were probably substantial sales of livestock to Japanese and Thai nationals. But the evidence obtained by the Commission indicates that a very substantial proportion of the loss in livestock was due to War Damage.

The immediate problem presented to the Commission was to compute the *numbers* of livestock lost through war damage. It was useless to expect such disinterested persons as the Penggawa or the Penghulu to certify claims for livestock, especially for poultry and pigs. Other methods based on a balance of probabilities had to be used when making the assessments:

#### Poultry:

There are daily births and deaths, and it was rare that any evidence supporting the numbers claimed was available. Owners of poultry could not say exactly what they owned on the day when the Japanese troops entered their district, nor could losses be computed, with any accuracy. The only



figure available was the claimed figure, and this covered a multitude of possibilities. The Commission decided to accept this figure, but to break it up as shown by the following example:

Claim for 700 fowl was divided by the Commission into:

- (a) 140 fully grown
  - (b) 140 half grown
  - (c) 140 broilers
  - (d) 280 chicks
- 700

and the price allowance proportions were:

$$(a)=1; (b)=\frac{1}{2}; (c)=\frac{25}{70}; (d)=\frac{1}{7}$$

Where, of course, there was clear evidence of numbers in the four categories, these were accepted. The table in the previous paragraph was applied only where no evidence of what the breakdown figures were was produced.

#### Pigs:

The same principle as with poultry was applied, and the price allocations were most carefully computed as under—

Claim for 200 pigs, breaks down to:

- (a) 4 boars
  - (b) 16 sows
  - (c) 32 large pigs
  - (d) 40 medium sized
  - (e) 40 weaners
  - (f) 68 piglets.
- 200

with price allowance proportions of:

$$(a) \text{ and } (b)=1; (c)=\frac{22}{25}; (d)=\frac{11}{25}; (e)=\frac{5}{25}; (f)=\frac{3}{25}$$

The Commission, when accepting numbers claimed, took note of the following:

- (i) Claimant's ownership of an area adequate to graze and accommodate livestock under claim.
- (ii) Evidence of appropriate livestock accommodation.
- (iii) Proof of purchase of fodder or foodstuffs.
- (iv) Evidence of sale of produce.

It will be seen from the above that the Commission had to adapt its approach to each claim to the evidence available, and that where any reliable evidence of quantities could be produced, it was given due weight. Where the Commission was offered a mere number unsupported by any acceptable evidence, a breakdown table was applied. These tables were also worked out for cattle and goats.

The Commission gave very serious consideration to the importation of buffaloes from Thailand, pigs from North Borneo and Indonesia and sheep from the Flores Archipelago, and most valuable assistance was given to these projects by the Commissioner-General. That these schemes were not eventually put into practice was due to a number of causes, among which may be specially mentioned the fluctuation of population during the period 1941 to 1952. A large number of livestock breeders were holders of Temporary





Occupation Licences (Squatters), and these had been uprooted by termination of their licences, and by the necessity to bring all producers of food within strict control so as to prevent supplies going to the bandits. It was with some reluctance that the Commission abandoned these schemes to pay for livestock in kind, because such schemes included the additional motive of improving the quality of stock in Malaya by importing first class animals.

### PUBLIC UTILITIES

Under this heading there falls naturally the Municipalities and Harbour Boards. For convenience of grouping, the Commission also included such undertakings as Malayan Collieries, Perak Hydro-Electric, and the various Power Stations serving North-west Malaya.

The assessment of claims classed as Public Utilities was pushed forward, because it was considered that these claims indirectly affected the poorer sections of the community.

Assessment of these claims required a competent knowledge of structural, mechanical and electrical engineering; and it involved an enormous volume of work both by Assessor and claimant. The history and importance of each item claimed had to be considered, and how this item was affected by the events during the Invasion and Occupation periods. As previously mentioned, much work was concerned with discriminating between accumulated maintenance and actual war damage as defined in the Ordinance. For example, there were very large claims for damage to roads, and it was known that the Japanese had made no efforts during the Occupation to repair roads. Very possibly the roads in Malaya were regarded by the Japanese as so much above their own normal standard that they did not consider maintenance necessary. The result was a large accumulated maintenance bill that had to be met by the Municipalities and which, unfortunately, could not be shared in any degree by the Commission because it covered no element of war damage.

Abuse of equipment was another cause of loss or damage. Substantial claim items were submitted for damage to Fire Hydrants, Standpipes, Mains, Fitters' Carts, Appliances, Tools and Illegal Connections. The cause of loss might generally be given as lack of maintenance. Another cause might be unskilled supervision, and neglect. Such losses were not directly attributable to War Damage, but no doubt, were due to the Japanese Occupation and the absence of the skilled care which the local Municipalities supply.

The Japanese removed many of the traffic islands and signs, and also the roadside railings and nameplates. They paid little attention to drains and did not appreciate the necessity to dredge canals. They actually removed some of the concrete slabs and inverts, and the sub-soil pipes connected with anti-malarial work. Their damage to anti-malarial arrangements was estimated by the Singapore Municipality as exceeding half a million dollars. These details are mentioned to convey some idea of the Japanese misuse of a highly organized Municipality.

Much damage was suffered by the Singapore and Penang Harbour Boards. Much was due to bombing, a great deal to sheer neglect. The Singapore Harbour Board estimated that the damage due to neglect of maintenance of Port Roads amounted to \$880,000. Launching Ways in the Shipyard suffered damage estimated at \$582,000. Loss of equipment by the Traffic Department was estimated at \$2,844,000. These figures will convey some idea of the damage incurred, and of the problems presented by the consequent claims to the War Damage Commission.



Perak Hydro-Electric and Malayan Collieries offered particular problems of their own. These required a great deal of investigation, and later discussion at a high level. The assessment of a claim of this nature really involves the complete appreciation of the aims and actions of the Company over a period of years, and particularly its post-war plans. These post-war plans have to be related to the position in which the Company found itself at the end of 1941, and to its economic prospects in the future. Thus general questions of economics arose in connection with all these large claims. Perak Hydro-Electric and Malayan Collieries were assessed by specialists.

### BUILDINGS

Some 20,000 claims for Buildings were received made up of 500 from the Tin Industry, 2,400 from the Rubber Industry, 2,100 Industrial and Commercial and 15,200 Dwelling Houses.

Building claims from the Rubber and Tin Industries were assessed according to the Scheme agreed with representatives of these Industries and were thus always kept apart from ordinary Building claims. This left some 17,300 claims, amounting to \$115 millions, to be assessed according to the special Building Scheme approved by the Commission.

For purposes of assessment Buildings were classed as:

- (a) All Schools, and such Institutions as were considered of economic importance to the country.
- (b) Commercial Buildings, Banks, Godowns, Installations and Factories.
- (c) Shop Houses, Garages and Stores.
- (d) Private Dwelling Houses.
- (e) Places for religious worship and Institutions associated therewith [not included in (a)].
- (f) Clubs, Cinemas, Theatres and Societies of various kinds.
- (g) Attap, corrugated iron and timber constructed temporary buildings and also those of a semi-permanent construction.

Restoration Awards were given in respect of Buildings falling within claims from the Tin Mining and Rubber Planting Industries. This was extended by the Scheme also to a Building relating to other business or industry which, in the opinion of the Commission, was essential to the economic well being of the country. There were then two other provisions in the Scheme, difficult to apply and not easily understood by claimants. These were:

- (1) A claim in respect of a Building other than one completely destroyed shall qualify for a Restoration Award.
- (2) A claim relating to a building completely destroyed which was wholly or partly occupied by the owner or his agent for the purpose of his business, and in respect of any part of such building so occupied, shall qualify for a Restoration Award.

Restoration Awards were, therefore, normally given in respect of claims for Buildings totally destroyed falling within classes (a), (b) and (c) above, subject to certain limitations. If such Buildings were NOT occupied by the owner or his agent for the purpose of his business the economic importance of the Building had to be established before a Restoration Award was approved.

Claims from Schools were subject to the test that they were recognised by the Education Department, and Institutions had to establish their importance to the economic prosperity of the country.



Where Restoration had actually been carried out in respect of claims qualifying for Restoration Awards, the actual cost of austerity repair or restoration was taken as the basis for computing an assessment. Where repair or restoration had not been carried out or completed, the Commission required claimant to give a written undertaking that he would repair or restore the property within a period fixed by the Commission as required under paragraph 8 of the Scheme. The Restoration Award was then computed on the basis of the estimated cost of essential restoration as at the 1st January, 1950. All this was subject to the proviso that any Restoration Award in respect of the total destruction of a house leased by the owner for business purposes was computed on the value of such house on 30th June, 1941.

There was a considerable difference in the cost of building material and labour in various parts of Malaya. Different rates were therefore applied to Singapore, North Malaya and the remainder of Malaya. In broad terms the January, 1950, was three times the June, 1941, cost for Singapore; twice for North Malaya and two and a half times for the remainder of Malaya.

Damage to Sports Clubs, and Clubs for other purposes, usually occurred as a result of the occupation of the premises by the Japanese, the destruction of playing fields for the production of crop, the misuse of land or buildings for car parks, or the use of the building for other than its original intent. Deterioration of buildings of this nature over a number of years, except as a direct result of misuse was rejected.

Claims from Institutions (approved by Government) were considered in the light of their importance to the economic interests of the country. Where there was no obvious value to the country from the existence of the Institution, and none was shown by the claimant, the rejection of the claim was considered by the Assessment Board.

Claims from religious bodies in respect of Churches, Mosques and religious and semi religious Institutions were subjected to analysis to determine what portion of these claims could be considered eligible on an austerity basis. Claims for bells, built in organs, figures and statues forming part of the building could not be rejected as they were essential to the ceremonies or practices carried out in the building; but the Commission had to consider these claim items on an austerity basis with due regard to the purpose of the object to be replaced and the material of which it was composed. Elaborate ornamentation of walls and floors, such as mosaic and special carvings, could, of course, not be replaced.

Dilapidation due to neglect, unless directly incidental to war damage already incurred, could not be admitted. Normal renovation required by the passage of time, or the voluntary or enforced absence of the owner, his agent or tenant, could not be claimed as War Damage. Deterioration or destruction due to white ants, or other similar pests, was not a proper claim under War Damage.

Alleged damage due to looting was accepted where there was good evidence that looting did actually take place in the immediate neighbourhood, and that damage occurred to the building in question.

There were many claims in respect of Dwelling Houses that were equipped on a standard far in excess of the normal requirements of the class of property represented. In such cases the Commission applied that portion of the Scheme which provided that no account should be taken of damage to property of an exceptional or unusual quantity or value. For example, the replacement of mahogany doors and built in ornamental cupboards or lapis



lazuli decorated rooms and bathrooms, was not considered reasonably necessary for the economic rehabilitation of the claimant. He could be granted restoration in materials of a lesser value to accord with other property in the immediate neighbourhood.

In connection with Restoration Awards, the following was allowed:

- (a) Reasonable cost of clearance of site preparatory to re-building.
- (b) Reasonable cost of replacement of electric fans and points, deemed necessary (taking into consideration the type of building concerned) for restoration on an austerity basis. Redecoration was allowed on an austerity basis in so far as necessitated by the actual war damage incurred.

The following qualified for assessment according to the merits of each individual case:

- Replacement of passenger lifts.
- Goods lifts
- Electrical installations
- Built in Refrigeration Plant
- Strong room doors
- Light railways
- Damage to drainage and sewage plant.

Damage done to land as the direct result of the erection of Defence Works, such as Air Raid Shelters, Trenches and the like qualified for an Outright Award.

#### **GENERAL ENGINEERING CLAIMS, INCLUDING FACTORIES**

Restoration Awards were given generally in claims of this class. Such awards were made where replacement or repair had already been carried out, or where there was clear intention that they would be carried out.

A very important factor in connection with this class of claims was depreciation, because depreciation varied considerably, and normal rates had to be worked out for each type of machinery and equipment concerned. The Commission endeavoured to keep its depreciation rates as close as possible to those accepted by the Income Tax Department.

The output of the plant for the year 1940 (unless abnormal) was generally taken as the standard for assessing necessary restoration. In respect of this class of claim the year 1941 was regarded as generally an abnormal year in Malaya. Exceptions to this rule, however, were electricity generating stations, Municipal undertakings (water and sewage plant) and harbour works for which the basis was the plant and machinery actually installed at the time of loss or damage.

The question of betterment entered largely into these assessments. Betterment was defined as the replacement of plant, machinery or equipment by larger and/or improved types capable of giving greater output, or the same output at less running cost. Normal replacement is the same machine or equipment. Where there was betterment, a suitable deduction was made for the extra expenditure incurred to produce the better results. This extra expenditure was considered a proper charge against claimant: it could not be classed as War Damage.

When a demand for certain consumable goods had altered, it was probably necessary for a claimant to make a corresponding change in the type of plant or machinery installed on restoration. For example, a brick-works may have had to switch a part of its works to the making of pre-cast concrete blocks to meet a demand created by new post-war methods of



building. In deciding the nature of the restoration to be carried out, allowance had to be made for this necessity, but always subject to the general rule that restoration awards were assessed on an austerity basis in respect of the actual plant and machinery lost or damaged.

Awards for loss of stores and spares required for the maintenance of a firm's plant and machinery were allowed a six months maximum. Claims for standard accessories supplied with the machine were not allowed, as these were included in the initial cost of the machine; for example, for a lathe—face plate, change speed gears, hardened steel centres.

Attachments and accessories other than those supplied with the machine were allowed. These would generally be ordered with the machine and be an additional charge; for example, lathe-indexing, milling and gear cutting attachments, tool grinding attachments, boring tables, etc.

For Municipal undertakings, electricity generating stations and similar installations spares ordered in the main contract, less the cost of those it could reasonably be assumed had been used, were allowed. Examples of spares that would be ordered in the main contract are:

- (i) for a steam turbine—thrust bearing pads, lined bearing bushes, tachometer;
- (ii) for an alternator—motor and starter coil;
- (iii) for an exciter—spare armature main field coils.

To establish whether stocks of spares carried by claimant were reasonable, evidence of the rate of expenditure was sought. The scope of the firm's undertakings and its financial position indicated whether it was reasonable for the money represented by the value of the spares, claimed to have been lost, to be "locked up" as spares.

Second-hand spares were written down to one-third the value of a new spare.

An award was made in respect of consumable stocks (coal, pig iron, etc.), lost up to a maximum of six months. Exceptional cases were considered on their merits.

The Commission permitted restoration to be carried out at a different location to that on which the damage or loss had occurred, but in such circumstances the cost of moving equipment from the old to the approved site was not allowed.

Plant confiscated or purchased by the Japanese and returned to the original owner through the Custodian of Enemy Property, or by any other way, was dealt with as follows:

- (i) If not requiring repair, no award given.
- (ii) If requiring repair and the article was essential to rehabilitation of the industry, a restoration award was given.
- (iii) If requiring repair but not essential to rehabilitation of the industry, an outright award was given.
- (iv) If returned but in a condition beyond repair, and not necessary to the rehabilitation of the industry, an outright award was given.
- (v) If returned in a condition beyond repair and necessary to the rehabilitation of the industry, a restoration award was made based on the cost of replacement less depreciation according to the age of the machine lost at the time of loss. If not returned to the original owner, a restoration award was made provided the business qualified for such an award, otherwise an outright award was given.



- (vi) No compensation was given for plant and machinery acquired during the Japanese Occupation and subsequently lost or damaged.

Plant purchased by the Japanese and not essential to the rehabilitation of the industry was not allowed. If the plant was essential, a restoration award was given subject to deduction of the Japanese payment scaled down in accordance with the Debtor/Creditor Ordinance.

Equipment (but not materials for incorporation in a contract work) lost on site of a contract were restored to the extent to which it was essential to the engineering industry, and an outright award was given when it was judged that a loss had been incurred but where it was unnecessary to replace.

Engineering work in progress was classed as follows:

- (i) Work that the Japanese finished.
- (ii) Work that the Japanese demolished.
- (iii) Work that the Japanese left untouched.

No award was given for (i) and (iii). If work under (ii) had to be restored, a restoration award was given based on the cost of restoring the work to the extent to which it had been completed when demolished. If restoration was unnecessary, an outright award was made based on the 1941 cost of the work so far as it had progressed. Such claims were usually vested in the person who let the contract, and not in the contractor.

Where heavy equipment has had to be removed to another site by reason of an act of War Damage, the Commission made no award to cover costs of removal.

Where an outright award was made for machinery of 1920 origin and earlier, scrap values only were allowed. If a restoration award was made, full depreciation according to the age of the machinery lost was deducted.

Vital parts of a machine in some cases had to be specially made in the country of origin of the machine. Such replacement was particularly expensive when purchase had to be made outside the Sterling area. After the war there was a world shortage of earth moving equipment and the majority of such units pre-war were manufactured in the United States and Canada. Repairs had to be made at high cost where an industry requiring such equipment had to be rehabilitated within a reasonable time. The Commission decided to limit the maximum award in such cases to the difference between the cost of a new piece of equipment and the value of the damaged equipment at the time of damage.

Lack of maintenance due to neglect, unless directly incidental to War Damage, was not admitted. Normal maintenance required by the passage of time and the voluntary or enforced absence of the owner was not awarded by the Commission.



**CHAPTER XXV****RUBBER**

Claims received from the Rubber Planting Industry totalled \$372 millions. The Schedule to the War Damage Ordinance, 1949, allocated the sum of \$85 millions to meet these claims.

This sum of \$85 millions was subject to the usual deduction of a proportionate share of the total administration costs of the Commission.

The Rubber Adviser to the Commission assumed duty on 1st March, 1950.

After preliminary informal discussions with representatives of the Industry, the Rubber Adviser held meetings on 14th March, 25th April and 21st June, 1950, with the Sub-Committee on War Damage appointed by the United Planting Association of Malaya. The object of these meetings was to decide on the general policy to be adopted in drawing up a scheme for dealing with claims from the Rubber Planting Industry.

The Commission took the view when dealing with claims from the Tin Mining and Rubber Planting Industries that as these two Industries had each been allocated the sum of \$85 millions and each placed in a separate category by themselves, the Commission would be prepared to accept any plan unanimously put forward by the Industry concerned, provided that such plan was equitable, and did not contravene the provisions of the War Damage Ordinance and the War Damage Scheme.

Great difficulty was experienced in obtaining a unanimous recommendation from the Rubber Industry. Several alternative schemes were put forward, each of which found its own supporters. However, after the meeting on the 21st June, 1950, it was considered that sufficient general agreement had been obtained to allow a scheme embodying the general principles to be placed before the Commission. A scheme for settling the claims from the Rubber Industry was therefore presented to the fifth meeting of the War Damage Commission held in Kuala Lumpur on the 23rd June, 1950.

A survey of the claims submitted from the Rubber Industry showed that these claims contained many items that were almost impossible to assess such as, for example, loss of fertility of the soil, loss of bark removed by tapping during the occupation, etc.; also items which would not be admissible such as compensation for rubber harvested during the occupation. In many cases individual claim items were much inflated.

It was early recognised both by the Commission and the representatives of the Industry that the practical method of dealing with this problem was to draw up a list of items (which should be as short as possible) that would qualify for assessment and award, and to discard all the remaining items. The difficulty was to obtain agreement as to which particular items should be included in the short list that qualified for assessment, and also whether any order of priority should be allocated to such items.

The Scheme submitted to the Commission Meeting held on the 23rd June, 1950, proposed that the items should be divided into three categories for assessment.



**Category A:**

Restoration of Rubber Areas Destroyed.

Restoration of essential Buildings.

Restoration of essential Machinery (including electric light plant for factories only).

Restoration of essential Business Equipment:

- (a) Factory Equipment (coagulating tanks, weighing machines, utensils, etc.
- (b) Estate Water Supplies (pumps, tanks, wells, reservoirs, piping, etc.).
- (c) Tapping Equipment (cups, cup hangers and spouts).
- (d) Tide Gates and Bunds.
- (e) Large Vehicle Bridges.
- (f) Fencing (if replaced since the occupation and before 31st December, 1949).
- (g) Vehicles.

**Category B:**

Austerity Clearing for access for tapping.

**Category C:**

All other items.

It was proposed that all items in Category A should be assessed first, and that such items should rank *pari passu* for assessment. Thereafter the dividend calculated on the total of awards made in Category A should be abated, if necessary, to permit some payment on Category B. Items in Category C would not be admitted for assessment or award.

These proposals were debated at considerable length in the Commission and eventually the following decisions were recorded:

- (a) Item "Fencing" was transferred from Category A to Category C.
- (b) The remainder of the Scheme as written was adopted.

The proposed Scheme when published met with considerable opposition from one section of the Industry.

The Commission had no desire to force an unwelcome Scheme upon the Industry, nor did they wish to have to decide between several Schemes. The Commission desired a Scheme which had the support of the whole Industry. Accordingly the Commission agreed to postpone the implementation of the proposed Scheme, and instructed the Chairman and Deputy Chairman to hold further meetings with the Industry in an endeavour to produce a Scheme that would have the unanimous support of the whole Industry.

Eventually, after a meeting with representatives of the Industry held at the Headquarters Offices of the Commission on the 19th September, 1950, a compromise Scheme was adopted which gained the support of all sections of the Industry, and this was approved at the Seventh Meeting of the Commission held in Kuala Lumpur on the 29th September, 1950. At the same meeting the Commission decided, as a result of representations made, to restore the item "Fencing" to Category A, subject to certain limitations.





The Scheme as finally adopted contained only two Categories A and B. The former Category B disappeared and the former Category C became Category B. After various adjustments the Scheme eventuated as under:

### Category A

#### RESTORATION AWARDS

- Rubber Trees destroyed.
- Essential Buildings damaged/destroyed.
- Essential Machinery damaged/destroyed.
- Tapping Equipment (Trees).
- Essential Factory Equipment.
- Essential Transport.
- Essential Water Supplies.
- Essential Main Bridges for carriage of crop.
- Essential Water Gates and Bunds.
- Austerity Clearing for access for tapping.
- Fencing (when specially erected in jungle areas to keep out wild animals).

#### OUTRIGHT AWARDS

- Scattered individual Rubber Trees destroyed.
- Rubber Areas destroyed and not Restored.
- Stocks of Rubber lost or destroyed.
- Stocks of Rice lost, destroyed or issued free to Labour Forces.

All the above items in Category A to rank *pari passu* for assessment and award. All other items were relegated to Category B, which category would not be admitted for assessment or award.

The Scheme as set forth above provided, of course, only the bare framework, and many details had to be worked out and considered before the Scheme could be applied in practice.

For this purpose the Rubber Adviser formed a Rubber Advisory Panel to assist him in working out the details. This Panel was composed as under:

#### NOMINEES OF THE UNITED PLANTING ASSOCIATION OF MALAYA

1. Honourable Mr. C. Thornton, C.B.E.;
2. G. M. Knocker, Esq.;
3. G. F. Lloyd, Esq.;

#### NOMINEES OF THE MALAYAN ESTATE OWNERS' ASSOCIATION

4. Honourable Mr. Yong Shook Lin, C.B.E., J.P.;
5. Honourable Mr. Tan Siew Sin, J.P.;
6. Chief Field Officer, Department of Agriculture (Mr. J. Greig);
7. Smallholders Advisory Officer, Rubber Research Institute (Mr. L. R. Davidson).



The Deputy Chairman and Rubber Adviser to the Commission (Mr. S. E. Chamier) acted as Chairman of the Panel.

The Panel held its first meeting on the 4th August, 1950, and met again on the 17th August, 1950. Both meetings were held at the Headquarters of the Commission in Kuala Lumpur.

A number of outstanding points after the second meeting were cleared up by correspondence between the Rubber Adviser and the members.

The detailed Scheme as worked out by the Rubber Advisory Panel was printed in pamphlet form entitled "Assessment of War Damage Claims from the Rubber Planting Industry" (afterwards usually referred to as the "Grey Book"). Four thousand copies were printed and distributed in October, 1950, to claimants in the Rubber Industry.

When the Scheme for assessing rubber claims was adopted, it was realised that claims could not be assessed on the information available in the original W.D.L. 1 claim form, and so a new questionnaire form was prepared and many thousands printed and distributed to claimants.

The division of the claim items into two categories, which formed the basis of the whole scheme, has already been explained. The chief points of interest in the detailed Scheme are as follows:

In accordance with the principles laid down in the War Damage Ordinance and Scheme the emphasis was on Restoration, and the general principle adopted was "no restoration, no compensation". Outright Awards were restricted to areas of rubber destroyed and not restored, scattered individual Rubber trees destroyed and to claims for losses of stocks of rubber and rice. The aim of the Commission was to get all areas of cut out rubber restored as quickly as possible. Encouragement to restore took the form of Restoration Awards for areas restored; whereas only Outright Awards (calculated at 50 per cent. of the value of the Restoration Award that would have been made if restoration had been effected) were granted to claimants who did not restore.

The Commission did not insist on restoration "in situ", but was agreeable to accepting alternative "new planting" on equivalent acreages owned by the claimant, provided that these areas had not previously carried rubber.

In addition the Commission were prepared, in their discretion, to accept alternative restoration with crops other than rubber, provided that these crops were of equal economic importance to the country.

In some cases claimants lost a very high percentage of their mature rubber and were thereby deprived of their means of earning revenue whilst restoring these losses. When claimants in such cases could prove that they were financially unable to provide the necessary funds required, in addition to the limited award by the Commission to effect full restoration, the Commission were prepared to consider allowing restoration of a lesser area against the full award.

The Commission did not accept the cutting down of existing old rubber and replanting as restoration of rubber areas destroyed during the War Damage period.

In cases where buildings, machinery, equipment, etc., had been lost but had not been restored, a NIL award was made. The rubber Scheme differed in this respect from other Schemes of assessment, but the object was to divert the maximum amount of money into awards for actual restoration work



carried out, or to be carried out under agreement. This was essential in view of the relatively small amount (\$85 millions) available to settle claims totalling \$372 millions.

Again, in view of the paucity of funds, it was necessary to limit the contributions to be made by the Commission towards restoration. The maximum restoration award for replanting rubber was fixed accordingly at \$450.00 per acre.

The difficult question of "betterment" was dealt with by drawing up depreciation tables for rubber trees, buildings, engines and machinery. These depreciation tables were also applied to repairs to buildings, engines and machinery, not only to cover any "betterment" but also to allow for normal "maintenance charges" which were difficult to distinguish in the accounts.

Provision was made for awards for areas of immature rubber recovered and brought into tapping, these being termed "partial losses". By agreement with representatives of all sections of the Industry, the award for "Austerity Clearing for access for Tapping" was arbitrarily fixed at the sum of \$5.50 per acre. As its title denotes, this award was restricted to mature areas brought into tapping.

Surveys, approved by the Survey Department, were required in support of all claims for rubber areas destroyed in excess of three acres. In view of the wild fluctuations in prices of cups, cup-hangers and spouts immediately after the end of the occupation, compensation for this item was based on the rates ruling in June, 1941.

The denial policy adopted against the Japanese was carried out on a large number of Estates, more especially from Southern Perak southwards. This applied more particularly to rubber stocks on Estates, and although a large quantity of rubber was burned (including in the process a number of smokehouses and packing sheds), considerable stocks of rubber fell into enemy hands and ranked for War Damage awards.

The Rubber Scheme provided for Restoration Awards related to actual restoration costs, but subject to depreciation, where machinery or equipment had been restored. In cases where claimant had changed his type of manufacture, or increased his manufacturing capacity, any additional expenditure incurred by reason of such change was considered to be for claimant's account.

Advances were made by Government during the B.M.A. period 1945/1946 to certain rubber estates with the object of getting production of rubber started at the earliest possible date. Recovery of these advances was eventually agreed in 1951 when the total of the advances was reduced by fifty per cent. on the understanding that early settlement of the balances would be made. These B.M.A. advances, as well as loans issued by the Industrial Rehabilitation Finance Board, were recoverable as a first charge on any dividends or awards that became due for payment to the Estates concerned.

The emphasis throughout the Scheme was on austerity, and restoration of essentials on an austerity basis. Buildings, machinery, etc., not restored by claimants before assessment were generally regarded as non-essential on an austerity basis. Exceptions to this, however, were allowed where it could be proved that the delay was due to Emergency conditions, or lack of finance.

The Commission is much indebted to the gentlemen who served on the Rubber Advisory Panel for their valuable help and advice, and to the Rubber Research Institute for much technical assistance and information.



It was found in practice that the pamphlet (assessment of War Damage Claims from the Rubber Planting Industry) did not provide sufficient detailed guidance to enable Rubber Assessors to submit adequate and uniform assessments.

A number of "Instructions to Assessors" had to be issued by the Rubber Adviser amplifying the provisions of the pamphlets. In addition it was quickly realised, after assessments of Estates started, that the work could not be completed in any reasonable time unless some of the awards laid down in the pamphlets were assessed on "scale rates" such as had already been adopted for Austerity Clearing. "Scale rates" were therefore carefully worked out and applied to Recovery of Immature Areas, Tapping Equipment, Factory Equipment and replacements of Vehicles, Trolleys and Boats. This had the effect of considerably simplifying and speeding up the work of assessments.

Any account of the work of the Rubber section of the Commission would be incomplete without recording the very good work put in by the Rubber Assessors and the careful and excellent assessment reports on Estates submitted by them. These Rubber Assessors were planters of considerable experience, and their reports quickly reached a high standard. All large rubber claims were very carefully considered and checked by special Rubber Assessment Boards.

The Scheme outlined above worked very well for large and medium Estates but failed when applied to smallholdings. The Scheme was based on (a) inspection; (b) the existence of accounts for checking expenditure, records for ascertaining the year of planting of rubber destroyed, year of construction, purchase or installation of buildings, machinery, vehicles, etc; (c) pre-war insurance schedules. It was only after this information had been obtained that the various depreciation tables could be applied.

When it came to dealing with smallholdings, it was evident that with the staff at the disposal of the Commission, 100 per cent. inspection of smallholdings was impossible. The relative values of these claims did not justify the expense of engaging a large additional staff (even if it could have been obtained) or the additional time involved in carrying out such inspections. In addition, many smallholdings were in areas where access was either forbidden or difficult, due to emergency conditions, or were so remote that the value of the claim did not justify a special visit. Even if the difficulties of inspection could be overcome, none of the information required under (b) and (c) above was available. An additional unforeseen difficulty was that of finding the actual claimant and proving ownership of the property. Many claims had been put in by Petition Writers who had often given their own address instead of the claimant's. There are inadequate postal facilities in the more remote Kampongs. In these isolated Kampongs property frequently changes hands without anyone bothering to report the matter to the local Land Office. The records of land transfers and ownership of smallholdings were found to be greatly in arrears in nearly all parts of the Federation, a position aggravated, of course, by the occupation years.

It was evident that that part of the Scheme which envisaged entering into Restoration Agreements with claimants, with reports on progress of restoration, inspections, etc., could not be applied to smallholders. A new approach to the problem was necessary. Initially the procedure was to check claims in the Land Offices and then to organise "Circuit Enquiries" at which claimants were summoned to convenient centres in the localities and interviewed in front of the Penghulus and other local claimants. Surprise inspection of accessible properties selected at random were combined with these "Circuit Enquiries".



This system worked quite well at the start, but was eventually discarded (except on the East Coast) for the following reasons:

- (a) the work of searching the Land Office records was too slow and the results often inconclusive.
- (b) Although the first circuit enquiry in any area was successful, there were always a number of claimants who did not turn up and a second circuit enquiry in the same area seldom justified the expense, in view of the few claimants who appeared.
- (c) Except on the East Coast, the total value of the claims was relatively so small that the administrative expenses, which also came out of the War Damage Fund, did not justify detailed investigation.
- (d) In the more remote areas, especially in Pahang, claimants had to be asked to travel long distances. As such claimants usually brought their wives and families with them, the expense to which they were put was not justified in view of the small award that could be made to them.

With the co-operation of the District Officers the aid of the Penghulus was enlisted. Penghulus were supplied with lists of the missing claimants in their mukims, and were asked to track them down. The Penghulu then certified who was the registered (or accepted) owner of the property at the time of loss. If the claimant was deceased, the Penghulu certified who was his Legal Representative. In the case of multiple owners or beneficiaries (it was not uncommon for there to be five or six part owners of properties of less than two acres), the Penghulu would get letters of authority for one person to receive payment on behalf of all those interested.

This procedure established contact with the person to whom payment was to be made. General enquiries established whether War Damage losses had occurred in that district. The acreage under rubber could be ascertained from the Extract of Mukim Register and the records of Rubber Restriction Control.

With these data the claim was then assessed on a table or scale. Austerity Clearing and Tapping Equipment were assessed in accordance with the Rubber Scheme. A scale for Buildings, Factory Equipment and Rubber Stocks, related to the acreage of the holding, was drawn up and the claimant awarded the scale figure or the amount claimed, whichever was the less. Restoration was assumed.

With regard to rubber trees cut out, since no reliable data was usually available as to either the age of the trees or the number actually cut out, a scale rate per tree was fixed and paid without requiring restoration. In most cases replacement of trees cut out on a smallholding was not an economical proposition without a complete replanting, and so claimants were advised to wait and carry out restoration under the Government Rubber Replanting Scheme. In the few cases where smallholders had planted buddings or clonal seed before the war, the age could be estimated with a fair degree of accuracy and the normal rubber scheme applied. It must be remembered that as most of these smallholders' claims assess for \$350 or less, they are not subject to dividend abatement, but are paid in full.

The system outlined above seems simple, but it is surprising, even with the aid of Government administrative machinery, how long it takes to establish contact with, and obtain the necessary information from, claimants in outlying Kampongs.



In Kelantan and Trengganu the bulk of the claims submitted in the two States were from smallholders, aggregating quite a large sum. In these two States, therefore, the attention of the War Damage Commission staff (Headquarters, Kota Bharu), was primarily focussed on claims from smallholders, and much more detailed investigation on the ground was carried out under an amplification of the Circuit Enquiry system.

There was a third type of claimant who provided an intermediate category between the public limited liability companies, or Estates administered according to European methods, and the smallholder. This third category was in many ways the most difficult with which to deal. It comprised Estates generally from 100 to 500 acres, and mostly Asian owned. These Estates were often found to include several smaller properties in widely separated States of the Federation. Chettiar claims might include a very large number of very small claims widely distributed over the Federation. In many cases the owners had been unable to visit their properties for several years due to the Emergency. Records were generally few and incomplete. The location, inspection and assessment of these properties was a difficult problem upon which the attention of the Commission had to be specially concentrated.

The Rubber Staff of the Commission consisted of the Rubber Adviser, one Superintending Assessor, ten Rubber Assessors and ten Rubber Investigators. Five Rubber Assessors have left the employment of the Commission, four of them to join the Rubber Replanting Scheme. Mention must also be made of the valuable help rendered by Mr. R. K. Hardwick, who assessed a number of large Rubber Estate Claims in Singapore and South Johore, working for the Commission on a fee basis.

A first interim payment of 50 per cent. was authorised by the Commission on 21st March, 1951, and a second interim payment of 30 per cent. on 14th May, 1952, making a total of 80 per cent. to date.

Assessments of claims have been severe, but they have been realistic and this will result in a reasonably high dividend payment.



**CHAPTER XXVI****PAYMENT OF CLAIMS**

Funds for the payment of claims come to the Commission over a period of less than six years. The first payment was made on the 18th March, 1950, some few days after the War Damage Scheme was approved by the Executive Councils; the last of the Fund is expected to reach the Commission in the first half of 1955, and the last payment will probably be made by the end of 1955, or the beginning of 1956.

As already stated, the use of the dividend system was imposed on the Commission by the terms of its legislation. Many claimants ask why they cannot at once be given the balance of their Award. The answer is that the Commission will not know what final dividend can be paid on the balance of any award until the work of assessment of all claims is nearer completion. The Commission will do what is possible to expedite payment of final dividends, and is now considering ways and means towards this end.

The paying capacity of the Commission is related to the rate of release of funds, but is at present roughly \$100 millions per annum, which, however, is actually more than the average annual receipt of funds. In 1952 some \$137 millions were paid out; but this sum included dividends to most of the large Rubber and Tin claims, and so was composed of a number of large payments which will not recur.

All payments are made by cheques specially designed for the Commission, and combining with the order to the Bank to pay a receipt from claimant. These cheques are prepared exclusively by machines, which retain in their mechanism a total of the daily issues, and so provide a useful check on the amount paid out.

The work of paying interim dividends has proved laborious, because each file has to undergo a series of checks for various purposes before it can eventually be handed to the machinist. After the issue of the cheque, there is a further process of check and counter check before despatch to claimant. These are judged essential. The Commission cannot afford to make mistakes when effecting payment of its dividends.

The payment of a second interim dividend on any category of claim has to be carried through as additional work to the normal payment of first dividends on claims just assessed. It is for this reason that the payments of second and subsequent dividends are spread over several months so as not to dislocate the normal payment of dividends on current awards.



**CHAPTER XXVII**  
**PROGRESS IN 1952**

This report has dealt with the origin, development and achievements of the Commission. A few words on the progress made in 1952 are now appropriate.

During 1952 claims valued at \$632,908,209 were assessed. These break down into:

Tin	...	...	...	...	...	\$134,464,136
Rubber	...	...	...	...	...	196,571,841
Seizure	...	...	...	...	...	46,064,988
Private Chattels	...	...	...	...	...	67,060,654
Other Claims	...	...	...	...	...	188,746,590

Payments of dividends during the year 1952 were as under:

Tin	...	...	...	...	...	\$35,454,913
Rubber	...	...	...	...	...	35,101,456
Seizure	...	...	...	...	...	26,915,996
Private Chattels	...	...	...	...	...	10,201,435
Other Claims	...	...	...	...	...	29,943,101

The position on the 31st December, 1952, was that 84,845 claims amounting to \$1,056,739,139 had been assessed and passed through the Assessment Boards, which made awards amounting to \$399,675,526 thereon. The total amount paid to claimants by the 31st December, 1952, was \$212,033,885 which breaks up into the following:

Tin	...	...	...	...	...	\$56,594,655
Rubber	...	...	...	...	...	41,147,835
Seizure	...	...	...	...	...	36,546,250
Private Chattels	...	...	...	...	...	19,585,960
Other Claims	...	...	...	...	...	38,759,185
W.R.I. Fund	...	...	...	...	...	19,400,000

Administration expenses during 1952 amounted to \$618,696. Up to the 31st December, 1952, Administration expenses totalled \$5,418,861. If we express Administration expenses as a percentage of the total value of claims assessed, we obtain 0 point 51 per cent.; if we express them as a percentage of the total awards made, we obtain 1.36 per cent. A measuring rod for these Administration expenses is provided by the Philippine Islands War Damage Commission whose Administration expenses were 2.6 per cent. of the total amount provided to pay awards.

In February, 1952, second interim dividends of 30 per cent. and 15 per cent. were declared on Seizure and Tin respectively. In May a second interim dividend of 30 per cent. was declared on Rubber. In November second interim dividends of 20 per cent. each were declared on Private Chattels and on Other Claims. These last two interim dividends are still in process of payment. The payment of a dividend on, let us say, Private Chattels, requires the check up of some 20,000 claim files, with cross references to payments and advances made by the Board of Trade, Service Departments, Local Treasuries, Colonial Office and the Commonwealth Relations Office. The work has to be carried out most carefully, and requires at least six months to complete. The usual payment of dividends on other Categories must go forward at the same time.





At the close of 1952 the following dividends had been declared:

Tin	...	...	...	...	...	75 per cent.
Rubber	...	...	...	...	...	80 ..
Seizure	...	...	...	...	...	70 ..
Private Chattels	...	...	...	...	...	60 ..
Other Claims	...	...	...	...	...	50 ..

Up till the end of 1952 the declaration of a dividend in any category of claims depended on several factors such as the progress of assessments, the abatement rate of awards and the provision of funds. The position now is that the provision of funds is the dominating factor to be considered when declaring a dividend though the other factors still have importance.

At the special request of His Excellency, the High Commissioner of the Federation, pressure was brought to bear strongly on the assessment of Private Chattel claims during 1952. As a result of a special effort, assessments of all Private Chattel claims were substantially completed by the end of January, 1953. The words "substantially completed" are used because a small number of these claims could not be finished until certain legal documents were furnished, and also there were a number of Private Chattel items scattered through other claim categories which would not be uncovered until assessment of these categories was made.

The assessment of claims in the Tin Category was also completed by the end of January, 1953. This had proved a most difficult claim category to complete, and I should like to place on record the exceptional services rendered by Mr. G. E. Pearson, the Accountant of the Commission, who was Chairman of all Tin Panels and on whose shoulders fell the main burden of analysing the assessments and making the awards. Mr. Pearson was assisted on the Tin Panels by members of the F.M.S. Chamber of Mines, and the All-Malaya Chinese Mining Association. These bodies have given the Commission unstinted assistance throughout the work of assessment and approval in the Tin Panels. It is not too much to say that, without their aid, the work would have proved most difficult to complete and would have required years to do.

The following categories were substantially completed at the end of 1952:

- Tin
- Private Chattels
- Seizure
- Public Utilities
- Tea
- Palm Oil

Work on the balance of claims is far advanced. A census of claim files was taken at the end of January, 1953, and showed that 39,061 claim files in the Other Claim Category had passed through the Assessment Board. There were 13,150 claims in this category still to be assessed of a value of \$213 millions. In Rubber 21,922 claims had passed through the Assessment Board. There were 9,537 claims of a value of \$75 millions still to be assessed. As was natural, Assessors worked on the easier claims first, and so it may be taken that the claims still to be assessed at the beginning of 1953 represented a hard core which will require more than average time to complete.



In November, 1952, the Commission moved into new quarters in Maxwell Road. Victory Avenue sub-office was also closed and the staff transferred to Maxwell Road. The new accommodation is much more spacious and is better designed for the Commission's needs than was the previous accommodation. Another important change was the closing down of the Fraser's Hill office. This office was opened to do the assessment of claims in West Pahang, Fraser's Hill and North Selangor. An armoured car was supplied, and the Assessors penetrated into the bandit areas of Bentong, Temerloh, Mentakab and Mengkarak. The work was completed early in 1952. Very great credit is due to Mr. J. Wishart for his handling of these West Pahang claims, and to Mr. Stiven and other members of the Fraser's Hill office staff.

During 1952 up till September the Chairman was on leave in Europe and the Commission was in the capable hands of Mr. S. E. Chamier, Deputy Chairman and Rubber Adviser. Mr. S. Lord, who is Technical Adviser on Assessments, acted as Deputy Chairman.

Brigadier Aitken-Holt carried out the work of Controller, Engineering and Buildings. This is a joint post compounded of two posts previously in existence; namely Adviser, Engineering and Superintending Assessor, Buildings.

Mr. G. E. Pearson, F.A.C.C.A., continued to carry out the duties of Accountant in addition to the complicated tasks set by the Tin Panels, to which reference has been made above.

Mr. A. G. W. Coleman continued to function as Secretary to the Commission, which is a post requiring a thorough knowledge of War Damage legislation and procedure, and a tactful method of handling a large newly recruited staff.

Mr. E. Parnell, Superintending Assessor, Private Chattel Claims, had a particularly difficult task in 1952, which he performed with his usual thoroughness.

Mr. T. F. Egan, Superintending Assessor, Agriculture, was concerned during the year with claims from Tea, Coconut, Palm Oil and Pineapple Estates.

The two main Branch Offices of the Commission, Singapore and Seremban, were under the control of Mr. J. F. Arthur and Mr. A. C. Godding respectively. Mr. Godding retired in November, 1952, and Mr. J. M. Harper took his place. These offices, particularly Singapore, are very difficult offices to control—Singapore because of the size and complexity of the claims to be dealt with there, and Seremban because this office controls Selangor, Negri Sembilan and Malacca claims amounting to some \$500 millions.

Mr. F. C. Tuck continued to fill the post of Superintending Assessor, East Coast, with an office at Kota Bharu. Work on East Coast claims differs in many ways from work on claims elsewhere in Malaya, and most of the assessments have to be made in the field by Assessors travelling long distances to the kampongs. This work has been carried out with efficiency and enthusiasm; and when the Kota Bharu office closes down at the end of 1953, as is expected, Mr. Tuck will have completed a difficult and arduous task in a highly competent manner.

Penang, Ipoh and Johore Bahru offices have been competently run during 1952 by Mr. E. E. Williamson, Mr. C. R. E. Moffat, and Mr. J. Wishart respectively. Mr. Harper spent a portion of the year at Johore Bahru before his promotion to Seremban. Mention of Mr. Wishart's strenuous efforts to complete the large number of Private Chattel claims in Johore is due.



Mr. Mustard, Superintending Assessor, Rubber, rendered valuable assistance by carrying out many of the duties of the Rubber Adviser, in addition to his own work, both during the period that Mr. Chamier was Acting Chairman and was on leave.

I have confined mention by name to those holding the rank of Superintending Assessor and above; but there are others who have done very commendable work during 1952.

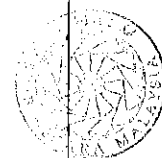
This chapter on staff requires mention, last but not least, of the work of the eight Unofficial Commissioners whose names are given on page 33. In 1950 when the Commission first met to discuss the many and most complicated problems presented to them, success depended on finding the fundamentally correct solutions to these problems. It would have been very easy to have made serious mistakes; it would have been not unnatural if the members had been divided on these questions; it would have been possible for unity of approach to have been lost. None of these things happened. Most issues were decided unanimously, and where there was criticism it was constructive criticism of the greatest value to the decision reached. Claimants owe a considerable debt to the voluntary work of Commissioners, which has proved in the sequel to have been based on well balanced judgments.

Similarly in the Appeal Boards, the work of the unofficial Commissioners is most praiseworthy. They bring to the hearing of Appeals an experience and enthusiasm that ensures a sympathetic and fair consideration of claimant's plea. These men, whose time is highly paid in their various vocations, give of that time most liberally to the work of the Commission. It is no exaggeration to write that the success of the Commission is due largely to the contribution of its unofficial members.

I should like to add a word of appreciation for the work of Mr. Godsall as Commissioner. He may aptly be regarded as the godfather of the Commission, having been Chairman of many of the Select Committees on War Damage which shaped the Scheme eventually approved. He was a very active Commissioner, whose advice was excellent, and available at all times. As he had been Financial Secretary to the Federation during the period when the War Damage Compensation Scheme was discussed and eventually evolved into a Commission, his knowledge of the aims and procedure of the Commission was unrivalled.

Mention must also be made of a document which when it first appeared was criticized by many in this country. I refer to Mr. J. St. L. Carson's Memorandum of Proposals. Now that it is possible to evaluate the merits of this document, it can be stated that the author produced a statement of the War Damage problem and its solution that was surprisingly accurate and foresighted. The War Damage legislation that was eventually approved was based on this Memorandum of Proposals; and those who have had to apply this legislation have done so with a frequent reference back to what may be described as the fundamental document in the War Damage Compensation Scheme.

Attached are the accounts for the year 1952 with certain supplementary figures and information prepared by the Accountant. These give a complete picture of what has been done during the past year, and also since the setting up of the Commission at the beginning of 1950.



## WAR DAMAGE COMMISSION, MALAYA

BALANCE SHEET AS AT 31ST DECEMBER, 1952

WAR DAMAGE FUND ... ..	\$83,705,194.61	CASH:	
SUNDRY CREDITORS ... ..	37,740.23	<i>At Banks—</i>	
DEPOSITS:		Chartered Bank of India, Australia & China, Kuala Lumpur ... ..	\$8,395,831.40
Staff Security Deposits ... ..	\$ 3,975.00	London ... ..	662,776.61
On Appeals Pending ... ..	24,551.42	Hongkong & Shanghai Banking Corporation, Kuala Lumpur ... ..	1,762,233.21
	28,526.42	Overseas Chinese Banking Corporation, Kuala Lum- pur ... ..	161,458.22
		Mercantile Bank of India, Kuala Lumpur ... ..	1,397,605.38
			\$12,379,904.82
		ON DEPOSIT:	
		Crown Agents for the Colonies (Joint Colonial Fund) ... ..	\$2,279,085.52
		Post Office Savings Bank, Kuala Lumpur ... ..	3,975.00
		Postmaster-General, Kuala Lumpur ... ..	3,215.40
			2,286,275.92
		ON IMPRESTS:	
		Petty Cash ... ..	1,900.00
		SUNDRY DEBTORS AND PREPAID ACCOUNTS ... ..	475,219.16
		ADVANCES TO STAFF FOR PURCHASE OF MOTOR CARS AND BICYCLES ... ..	85,304.20
		H.M. GOVERNMENT UNITED KINGDOM ... ..	68,542,857.16
			\$83,771,461.26
	<u>\$83,771,461.26</u>		<u>\$83,771,461.26</u>



## ADMINISTRATION ACCOUNT

For the year ended 31st December, 1952

To Personal Emoluments ...	\$2,049,619.71	By Interest ... ..	\$ 52,375.91
.. Other Charges; An- nually Recurrent ...	350,800.71	.. Sundry Receipts ... ..	42,398.87
.. Other Charges: Special Expenditure ... ..	2,540.93	.. Balance carried to War Damage Fund Account ... ..	2,308,186.57
	<u>\$2,402,961.35</u>		<u>\$2,402,961.35</u>



## WAR DAMAGE FUND ACCOUNT TO 31st DECEMBER, 1952

	To 31st Dec., 1951.		1952.			To 31st Dec., 1951.		1952.					
	\$	c.	\$	c.		\$	c.	\$	c.				
To Administration Account	3,117,932	38	2,308,180	57	5,426,118	85	By Custodian of Enemy Property, Federation of Malaya	00,900,498	31	—	00,900,498	31	
To Payments to Galmants Tin Mining	21,138,854	00	35,454,913	00			By Custodian of Property, Singapore	11,801,956	00	013,936	60	12,415,893	40
Rubber Planting	0,040,050	86	35,101,456	35			By Proceeds Salvage	500	00	—	—	500	00
Private Chattels	9,384,762	04	10,201,435	78			By Advances: Federation of Malaya	—	—	44,074,350	04	44,074,350	04
Other Claims	18,444,988	53	50,859,097	19			Colony of Singapore	—	—	12,371,423	57	12,371,423	57
	<u>55,014,456</u>	<u>43</u>	<u>137,616,902</u>	<u>32</u>	192,031,357	75	By H.M. Government United Kingdom	—	—	—	—	171,400,000	00
To War Risks (Goods) Insurance Funds					10,400,000	00							
To Balance					83,705,194	01							
					<u>301,162,071</u>	<u>31</u>						<u>301,162,071</u>	<u>31</u>



**SCHEDULE OF MAXIMUM AMOUNTS TO BE APPLIED IN PAYMENT OF WAR DAMAGE CLAIMS AS AT  
31st DECEMBER, 1952**

	Tin Mining.		Rubber Planting.		Private Chattels.		Other Claims.		Total.	
	\$	c.	\$	c.	\$	c.	\$	c.	\$	c.
Maximum amounts allocated in War Damage Fund										
	85,000,000	00	85,000,000	00	50,000,000	00	215,000,000	00	435,000,000	00
<i>less:</i>										
Payments to Claimants to 31st December, 1952	50,503,587	00	41,147,507	21	10,586,107	82	75,304,036	72	102,631,357	75
Administration Expenses to 31st December, 1952	1,080,276	32	1,000,276	12	623,691	68	2,081,675	03	5,426,118	05
	<u>57,653,843</u>	<u>12</u>	<u>42,207,783</u>	<u>33</u>	<u>20,209,850</u>	<u>50</u>	<u>77,985,860</u>	<u>75</u>	<u>108,057,476</u>	<u>70</u>
Maximum balance remaining	<u>27,346,156</u>	<u>38</u>	<u>42,782,210</u>	<u>07</u>	<u>29,790,110</u>	<u>50</u>	<u>137,014,030</u>	<u>25</u>	<u>236,942,523</u>	<u>30</u>



*The photographs included in this volume will give readers of this Report some idea of the problems presented to the Commission, and of the restoration that was carried out with the assistance of the Commission.*

*The Commission wishes to express its thanks to those claimants who provided photographs, and particularly to Messrs. Harrisons & Crosfield (M) Ltd., Shell Company, Anglo Oriental (Malaya) Ltd., Sungei Besi Mines, Singapore Dairy Farm, Singapore Traction Company, Dusun Bertam Rubber Estate, Selborne Gutta Percha Estate, South Malayan Pineapple Company, F.M.S. Chamber of Mines.*





*Open Cast Tin Mine showing broken down terraces in process of restoration.*

*Open Cast Tin Mine*





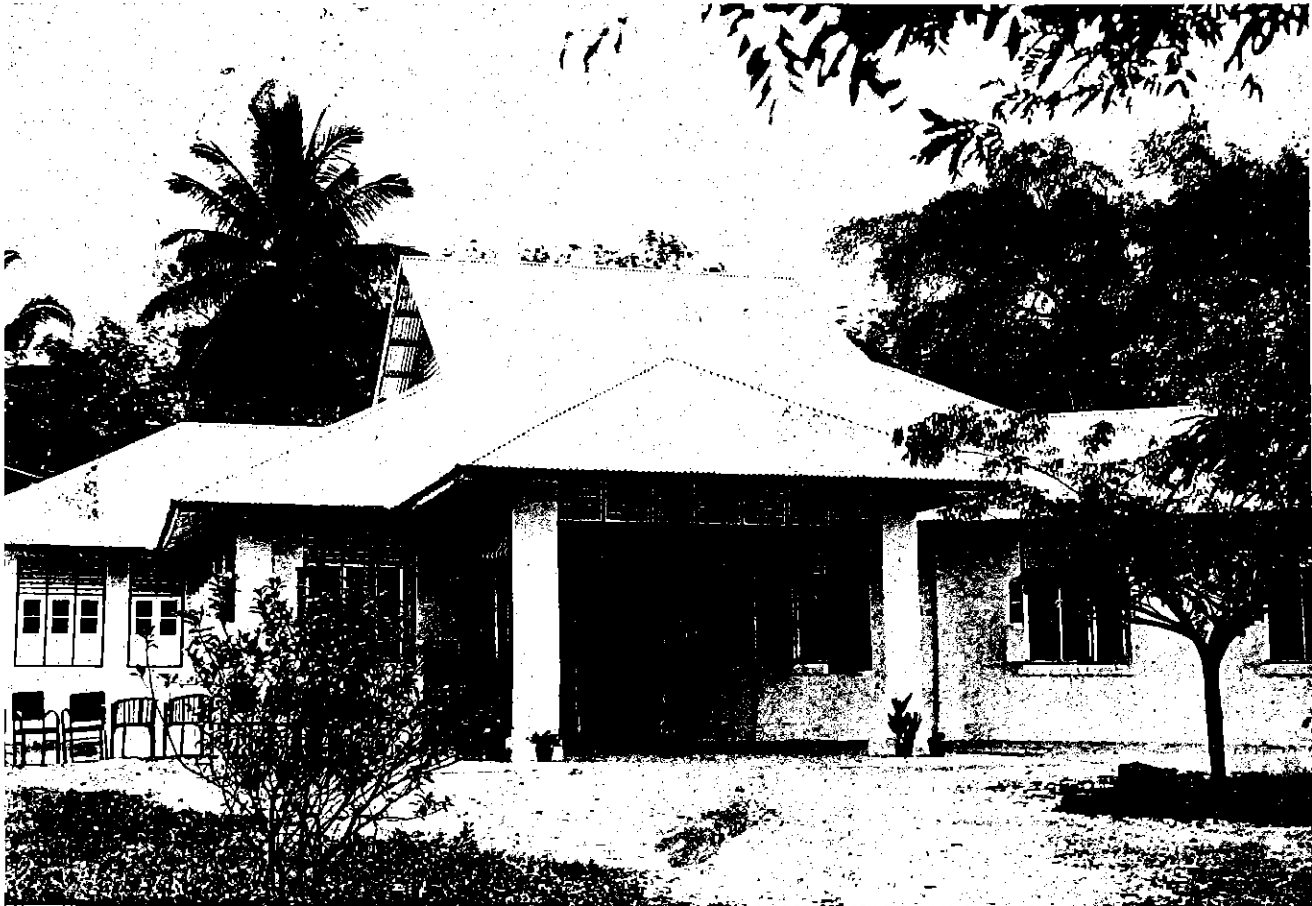
*Coconut Estate clearing lalang after Japanese occupation. Adk - Klog*

*Adk - Klog*

*Field of mature coconuts after clearing.*



*Rubber Manager's  
Bungalow restored.*

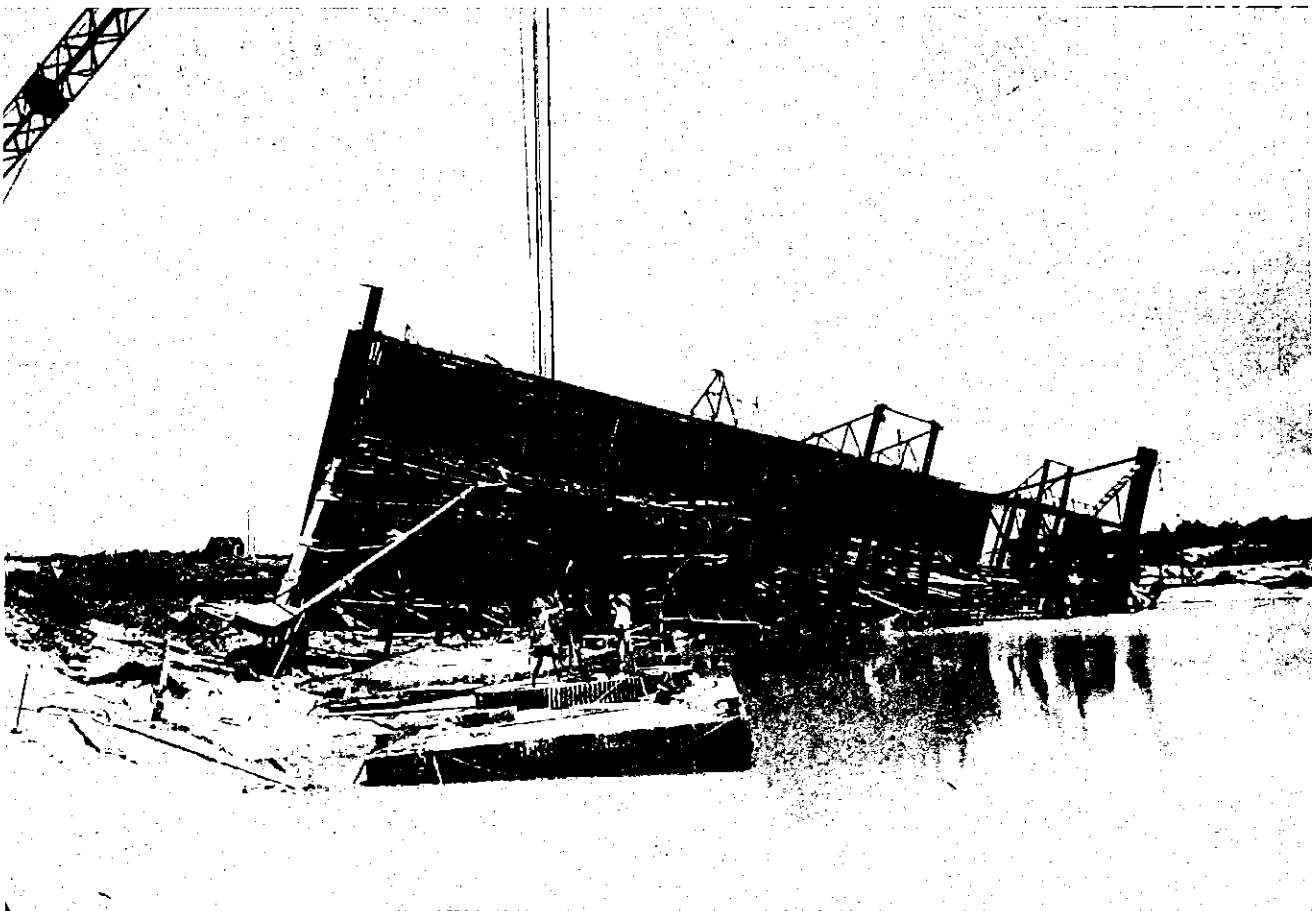


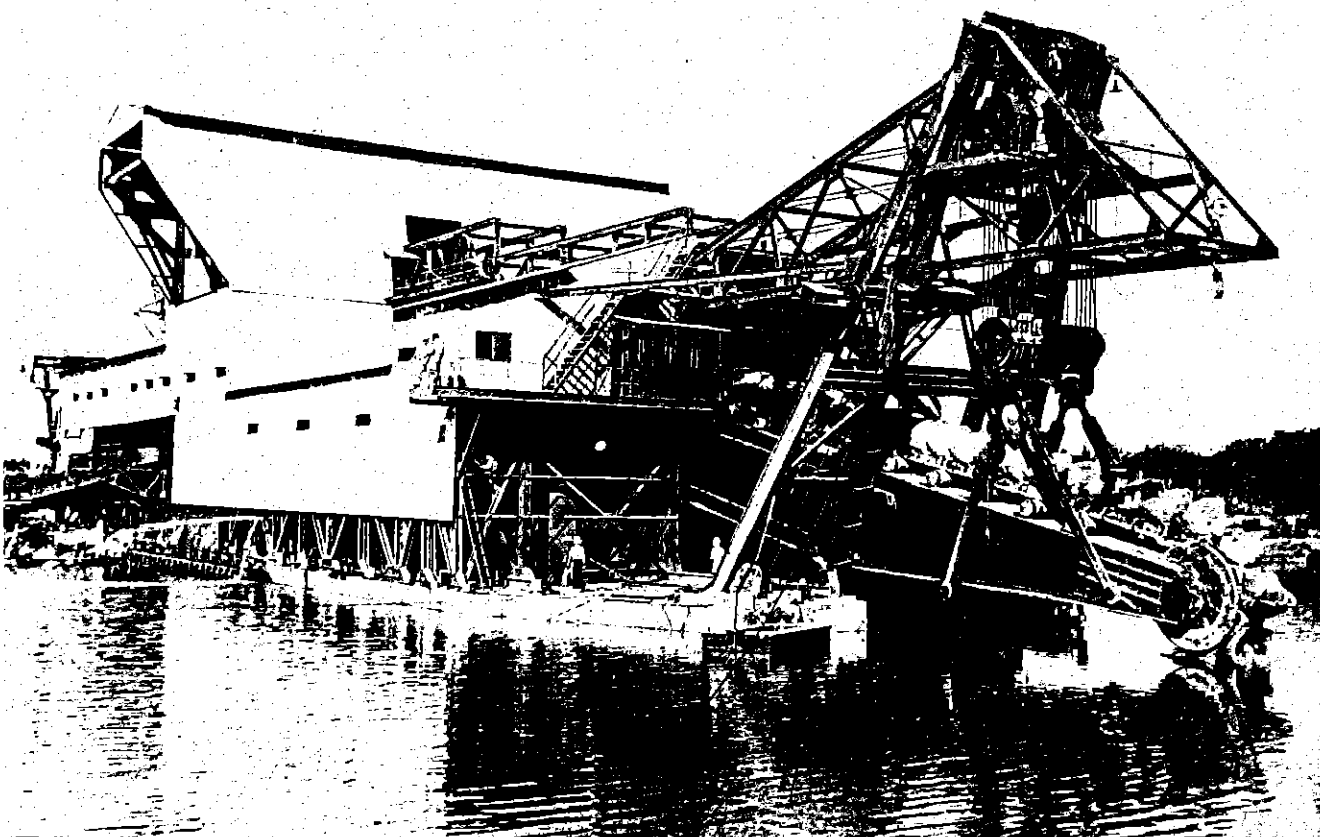


*Restoration Rubber P.B.I.G. Clonal Seedlings.*



*Overturned Tin  
Dredge before re-  
habilitation.*





Adrian S.

*Tin Dredge after rehabilitation.*



*Clearing virgin  
jungle for Pine-  
apples.*

Am-55





*Pineapple crop on cleared ground.*







*Singapore Dairy Farm cattle.*

*Singapore Dairy Farm buildings.*





*Singapore Traction Company trolley bus.*

*Singapore Traction Company motor bus.*





*Cultivation on the East Coast.*

*Fishing nets on the East Coast.*





*Shell Company's installations before rehabilitation.*     *De Hg*

*De Hg*

*Shell Company's installations after rehabilitation.*





*Gutta Percha Estate showing the trees.*

*Gutta Percha Estate showing finished product.*





*F.M.S. Chamber of Mines building restored.*

*Dec 1937*

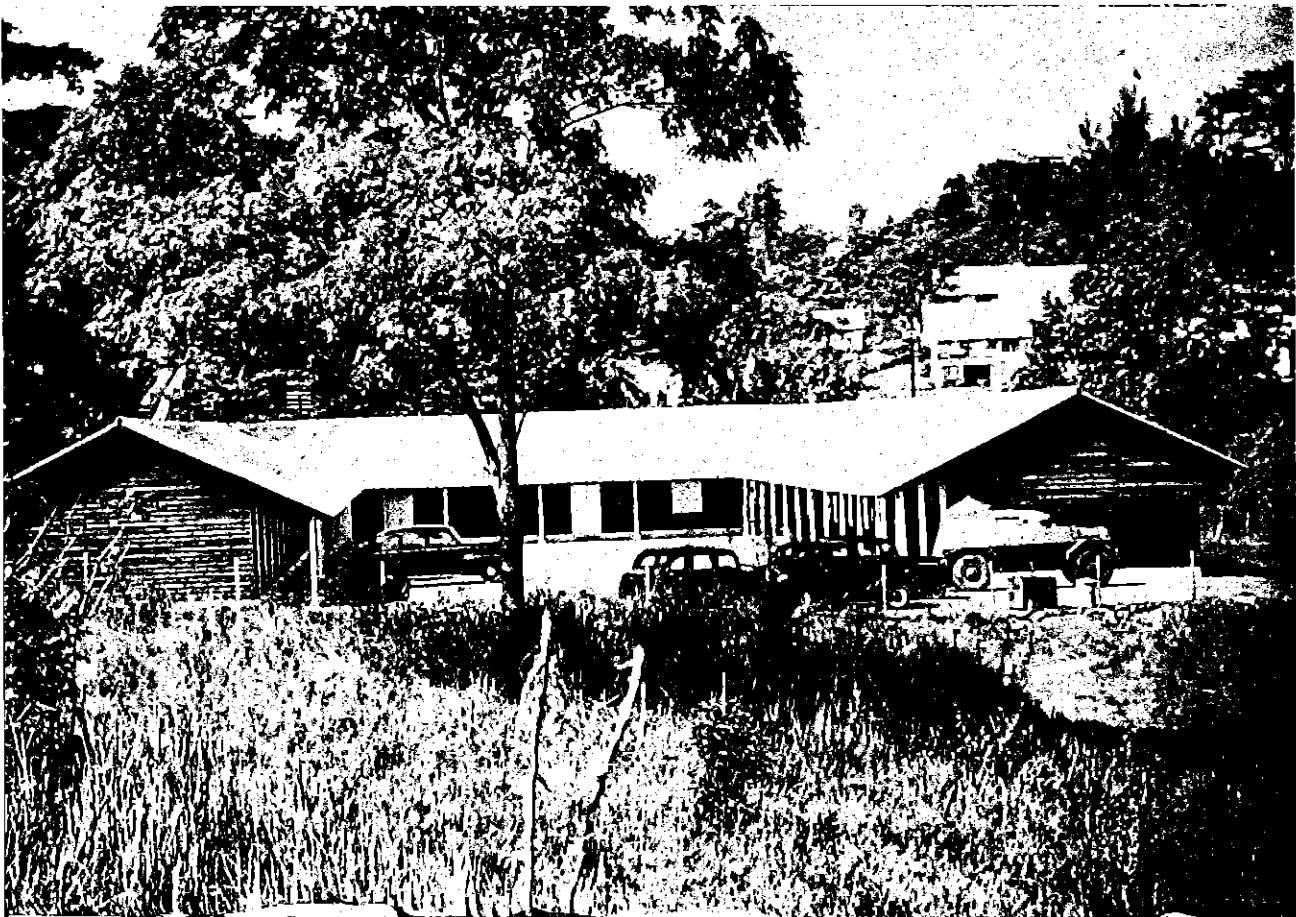
*The Commission's armoured car and crew about to enter bandit country.*



Headquarters War  
Damage Commission, Kuala Lumpur.

00/01412  
BIC/PIC/P2

02. 28.



## **Annexure E**

United Kingdom Public Records Act 1958.

- Original (As enacted)
- Latest (Revised)



# Public Records Act, 1958

6 & 7 ELIZ. 2 CH. 51

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To be returned to  
H.M.S.O. (P.D.) (P.C.)  
for Controller's Library  
Run No. **J.**  
Bin. No. **91**  
Box. No. **2A.**

## ARRANGEMENT OF SECTIONS

### Section

1. General responsibility of the Lord Chancellor for public records.
2. The Public Record Office.
3. Selection and preservation of public records.
4. Place of deposit of public records.
5. Access to public records.
6. Destruction of public records in Public Record Office or other place of deposit.
7. Records for which Master of the Rolls remains responsible.
8. Court records.
9. Legal validity of public records and authenticated copies.
10. Interpretation.
11. Public Record Office Acts to cease to have effect.
12. Northern Ireland.
13. Short title, repeals and commencement.

### SCHEDULES:

First Schedule—Definition of public records.

Second Schedule—Enactments prohibiting disclosure of information obtained from the public.

Third Schedule—Consequential amendments.

Fourth Schedule—Repeals.



## CHAPTER 51

An Act to make new provision with respect to public records and the Public Record Office, and for connected purposes. [23rd July, 1958]

**B**E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) The direction of the Public Record Office shall be transferred from the Master of the Rolls to the Lord Chancellor, and the Lord Chancellor shall be generally responsible for the execution of this Act and shall supervise the care and preservation of public records. General responsibility of the Lord Chancellor for public records.

(2) There shall be an Advisory Council on Public Records to advise the Lord Chancellor on matters concerning public records in general and, in particular, on those aspects of the work of the Public Record Office which affect members of the public who make use of the facilities provided by the Public Record Office.

The Master of the Rolls shall be chairman of the said Council and the remaining members of the Council shall be appointed by the Lord Chancellor on such terms as he may specify.

(3) The Lord Chancellor shall in every year lay before both Houses of Parliament a report on the work of the Public Record Office, which shall include any report made to him by the Advisory Council on Public Records.

2.—(1) The Lord Chancellor may appoint a Keeper of Public Records to take charge under his direction of the Public Record Office and of the records therein and may, with the concurrence of the Treasury as to numbers and conditions of service, appoint such other persons to serve in the Public Record Office as he may think fit. The Public Record Office.

(2) The Keeper of Public Records and other persons appointed under this Act shall receive such salaries and remuneration as the Treasury may from time to time direct.

(3) It shall be the duty of the Keeper of Public Records to take all practicable steps for the preservation of records under his charge.

(4) The Keeper of Public Records shall have power to do all such things as appear to him necessary or expedient for maintaining the utility of the Public Record Office and may in particular—

- (a) compile and make available indexes and guides to, and calendars and texts of, the records in the Public Record Office ;
- (b) prepare publications concerning the activities of and facilities provided by the Public Record Office ;
- (c) regulate the conditions under which members of the public may inspect public and other records or use the other facilities of the Public Record Office ;
- (d) provide for the making and authentication of copies of and extracts from records required as evidence in legal proceedings or for other purposes ;
- (e) accept responsibility for the safe keeping of records other than public records ;
- (f) make arrangements for the separate housing of films and other records which have to be kept under special conditions ;
- (g) lend records, in a case where the Lord Chancellor gives his approval, for display at commemorative exhibitions or for other special purposes ;
- (h) acquire records and accept gifts and loans.

(5) The Lord Chancellor may by regulations made with the concurrence of the Treasury and contained in a statutory instrument prescribe the fees which may be charged for the inspection of records under the charge of the Keeper of Public Records, for authenticated copies or extracts from such records and for other services afforded by officers of the Public Record Office and authorise the remission of the fees in prescribed cases.

(6) Fees received under the last foregoing subsection shall be paid into the Exchequer.

Selection and  
preservation  
of public  
records.

3.—(1) It shall be the duty of every person responsible for public records of any description which are not in the Public Record Office or a place of deposit appointed by the Lord Chancellor under this Act to make arrangements for the selection of those records which ought to be permanently preserved and for their safe-keeping.

(2) Every person shall perform his duties under this section under the guidance of the Keeper of Public Records and the said

Keeper shall be responsible for co-ordinating and supervising all action taken under this section.

(3) All public records created before the year sixteen hundred and sixty shall be included among those selected for permanent preservation.

(4) Public records selected for permanent preservation under this section shall be transferred not later than thirty years after their creation either to the Public Record Office or to such other place of deposit appointed by the Lord Chancellor under this Act as the Lord Chancellor may direct:

Provided that any records may be retained after the said period if, in the opinion of the person who is responsible for them, they are required for administrative purposes or ought to be retained for any other special reason and, where that person is not the Lord Chancellor, the Lord Chancellor has been informed of the facts and given his approval.

(5) The Lord Chancellor may, if it appears to him in the interests of the proper administration of the Public Record Office, direct that the transfer of any class of records under this section shall be suspended until arrangements for their reception have been completed.

(6) Public records which, following the arrangements made in pursuance of this section, have been rejected as not required for permanent preservation shall be destroyed or, subject, in the case of records for which some person other than the Lord Chancellor is responsible, to the approval of the Lord Chancellor, disposed of in any other way.

(7) Any question as to the person whose duty it is to make arrangements under this section with respect to any class of public records shall be referred to the Lord Chancellor for his decision.

(8) The provisions of this section shall not make it unlawful for the person responsible for any public record to transmit it to the Keeper of the Records of Scotland or to the Public Record Office of Northern Ireland.

4.—(1) If it appears to the Lord Chancellor that a place out-  
side the Public Record Office affords suitable facilities for the  
safe-keeping and preservation of records and their inspection  
by the public he may, with the agreement of the authority who  
will be responsible for records deposited in that place, appoint it  
as a place of deposit as respects any class of public records  
selected for permanent preservation under this Act.

(2) In choosing a place of deposit under this section for public records of—

(a) courts of quarter sessions or magistrates' courts, or

(b) courts of coroners of counties or boroughs,

the Lord Chancellor shall have regard to any arrangements made by the person for the time being responsible for the records

with respect to the place where those records are to be kept and, where he does not follow any such arrangements, shall, so far as practicable, proceed on the principle that the records of any such court ought to be kept in the area of the administrative county or county borough comprising the area for which the court acts or where it sits, except in a case where the authorities or persons appearing to the Lord Chancellor to be mainly concerned consent to the choice of a place of deposit elsewhere.

(3) The Lord Chancellor may at any time direct that public records shall be transferred from the Public Record Office to a place of deposit appointed under this section or from such a place of deposit to the Public Record Office or another place of deposit.

(4) Before appointing a place of deposit under this section as respects public records of a class for which the Lord Chancellor is not himself responsible, he shall consult with the Minister or other person, if any, who appears to him to be primarily concerned and, where the records are records of a court of quarter sessions the records of which are, apart from the provisions of this Act, subject to the directions of a *custos rotulorum*, the Lord Chancellor shall consult him.

(5) Public records in the Public Record Office shall be in the custody of the Keeper of Public Records and public records in a place of deposit appointed under this Act shall be in the custody of such officer as the Lord Chancellor may appoint.

(6) Public records in the Public Record Office or other place of deposit appointed by the Lord Chancellor under this Act shall be temporarily returned at the request of the person by whom or department or office from which they were transferred.

Access to  
public records.

5.—(1) Public records in the Public Record Office, other than those to which members of the public had access before their transfer to the Public Record Office, shall not be available for public inspection until they have been in existence for fifty years or such other period, either longer or shorter, as the Lord Chancellor may, with the approval, or at the request, of the Minister or other person, if any, who appears to him to be primarily concerned, for the time being prescribe as respects any particular class of public records.

(2) Without prejudice to the generality of the foregoing subsection, if it appears to the person responsible for any public records which have been selected by him under section three of this Act for permanent preservation that they contain information which was obtained from members of the public under such conditions that the opening of those records to the public after the period determined under the foregoing subsection would or might constitute a breach of good faith on the part of the Government or on the part of the persons who obtained the information, he

shall inform the Lord Chancellor accordingly and those records shall not be available in the Public Record Office for public inspection even after the expiration of the said period except in such circumstances and subject to such conditions, if any, as the Lord Chancellor and that person may approve, or, if the Lord Chancellor and that person think fit, after the expiration of such further period as they may approve.

(3) Subject to the foregoing provisions of this section, subject to the enactments set out in the Second Schedule to this Act (which prohibit the disclosure of certain information obtained from the public except for certain limited purposes) and subject to any other Act or instrument whether passed or made before or after this Act which contains a similar prohibition, it shall be the duty of the Keeper of Public Records to arrange that reasonable facilities are available to the public for inspecting and obtaining copies of public records in the Public Record Office.

(4) Subsection (1) of this section shall not make it unlawful for the Keeper of Public Records to permit a person to inspect any records if he has obtained special authority in that behalf given by an officer of a government department or other body, being an officer accepted by the Lord Chancellor as qualified to give such an authority.

(5) The Lord Chancellor shall as respects all public records in places of deposit appointed by him under this Act outside the Public Record Office require arrangements to be made for their inspection by the public comparable to those made for public records in the Public Record Office, and subject to restrictions corresponding with those contained in the foregoing provisions of this section.

6. If as respects any public records in the Public Record Office or any place of deposit appointed under this Act it appears to the Keeper of Public Records that they are duplicated by other public records which have been selected for permanent preservation or that there is some other special reason why they should not be permanently preserved, he may, with the approval of the Lord Chancellor and of the Minister or other person, if any, who appears to the Lord Chancellor to be primarily concerned with public records of the class in question, authorise the destruction of those records or, with that approval, their disposal in any other way.

7.—(1) Subject to the provisions of this section, the Master of the Rolls shall continue to be responsible for, and to have custody of, the records of the Chancery of England, including those created after the commencement of this Act, and shall have power to determine where the said records or any of them are for the time being to be deposited.

(2) Section three and subsection (6) of section four of this Act shall not apply to any of the said records but if and so long as any of them are deposited in the Public Record Office those records shall be in the custody of the Keeper of Public Records and subject to the directions of the Lord Chancellor as in the case of any other records in the Public Record Office.

(3) Subject to the foregoing provisions of this section, the Master of the Rolls shall not have charge and superintendence over, or custody of, any public records and any public records which at the commencement of this Act were in the custody of the Master of the Rolls (other than records of the Chancery of England) shall thereafter be in the custody of the Keeper of Public Records or such other officer as the Lord Chancellor may from time to time appoint.

**Court records.** 8.—(1) The Lord Chancellor shall be responsible for the public records of every court of record or magistrates' court which are not in the Public Record Office or a place of deposit appointed by him under this Act and shall have power to determine in the case of any such records the officer in whose custody they are for the time being to be:

Provided that in the application of this subsection to public records of the Chancery Court of the County Palatine of Lancaster references to the Chancellor of the Duchy of Lancaster shall be substituted for references to the Lord Chancellor.

(2) The power of the President of the Probate Division of the High Court under section one hundred and seventy of the Supreme Court of Judicature (Consolidation) Act, 1925, to direct where the wills and other documents mentioned in that section are to be deposited and preserved (exercisable with the consent of the Lord Chancellor) shall be transferred to the Lord Chancellor.

(3) Where it appears to the President of the Probate Division that the copies of calendars of grants prepared under section one hundred and fifty-six of the Supreme Court of Judicature (Consolidation) Act, 1925, which are kept in a particular district probate registry, or such of those calendars as were issued before a particular date, are not being used by members of the public to any appreciable extent and that, having regard to the facilities for consulting copies of the calendars kept elsewhere, it is reasonable to withdraw the public right of inspection of those copies of calendars in that particular probate registry, he may direct that subsection (3) of the said section one hundred and fifty-six shall cease to apply to those copies and, if he thinks fit, that they shall be transferred to and kept for public inspection in such other place as he may direct.

In this subsection the reference to a district probate registry includes a reference to the office of the commissary clerk of Edinburgh and the probate registry in Belfast.

(4) Where any private documents have remained in the custody of a court in England or Wales for more than fifty years without being claimed, the Keeper of Public Records may, with the approval of the Master of the Rolls, require the documents to be transferred to the Public Record Office and thereupon the documents shall become public records for the purposes of this Act.

(5) Section three of this Act shall not apply to such of the records of ecclesiastical courts described in paragraph (n) of subparagraph (1) of paragraph 4 of the First Schedule to this Act as are not held in any office of the Supreme Court or in the Public Record Office, but, if the Lord Chancellor after consulting the President of the Probate Division so directs as respects any of those records, those records shall be transferred to such place of deposit as may be appointed by the Lord Chancellor and shall thereafter be in the custody of such officer as may be so appointed.

(6) The public records which at the commencement of this Act are in the custody of the University of Oxford and which are included in the index a copy of which was transmitted to the principal probate registrar under section two of the Oxford University Act, 1860, shall not be required to be transferred under the last foregoing subsection but the Lord Chancellor shall make arrangements with the University of Oxford as to the conditions under which those records may be inspected by the public.

9.—(1) The legal validity of any record shall not be affected by its removal under the provisions of this Act, or of the Public Record Office Acts, 1838 to 1898, or by any provisions in those Acts with respect to its legal custody.

Legal validity of public records and authenticated copies.

(2) A copy of or extract from a public record in the Public Record Office purporting to be examined and certified as true and authentic by the proper officer and to be sealed or stamped with the seal of the Public Record Office shall be admissible as evidence in any proceedings without any further or other proof thereof if the original record would have been admissible as evidence in those proceedings.

In this subsection the reference to the proper officer is a reference to the Keeper of Public Records or any other officer of the Public Record Office authorised in that behalf by the Keeper of Public Records, and, in the case of copies and extracts made before the commencement of this Act, the deputy keeper of the records or any assistant record keeper appointed under the Public Record Office Act, 1838.



**Interpretation.** 10.—(1) In this Act “public records” has the meaning assigned to it by the First Schedule to this Act and “records” includes not only written records but records conveying information by any other means whatsoever.

(2) Where records created at different dates are for administrative purposes kept together in one file or other assembly all the records in that file or other assembly shall be treated for the purposes of this Act as having been created when the latest of those records was created.

**Public Record Office Acts to cease to have effect.** 11. The Public Record Office Acts, 1838 to 1898, shall cease to have effect and the enactments mentioned in the Third Schedule to this Act shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this section.

**Northern Ireland.** 12.—(1) It shall be lawful for any government department or other body or person having the custody of any public records relating exclusively or mainly to Northern Ireland to transmit those records to the Public Record Office of Northern Ireland.

(2) No limitation or restriction imposed by virtue of any enactment on the powers of the Parliament of Northern Ireland shall preclude that Parliament from passing legislation, in relation to courts or tribunals whose jurisdiction extends only to Northern Ireland, for purposes similar to the purposes of subsection (4) of section eight of this Act.

**Short title, repeals and commencement.** 13.—(1) This Act may be cited as the Public Records Act, 1958.

(2) The enactments specified in the Fourth Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule.

(3) This Act shall come into force on the first day of January, nineteen hundred and fifty-nine.

## SCHEDULES

## FIRST SCHEDULE

Section 10.

## DEFINITION OF PUBLIC RECORDS

1. The provisions of this Schedule shall have effect for determining what are public records for the purposes of this Act.

*Departmental records*

2.—(1) Subject to the provisions of this paragraph, administrative and departmental records belonging to Her Majesty, whether in the United Kingdom or elsewhere, in right of Her Majesty's Government in the United Kingdom and, in particular,—

- (a) records of, or held in, any department of Her Majesty's Government in the United Kingdom, or
- (b) records of any office, commission or other body or establishment whatsoever under Her Majesty's Government in the United Kingdom,

shall be public records.

(2) Sub-paragraph (1) of this paragraph shall not apply—

- (a) to records of any government department or body which is wholly or mainly concerned with Scottish affairs, or which carries on its activities wholly or mainly in Scotland, or
- (b) to registers, or certified copies of entries in registers, being registers or certified copies kept or deposited in the General Register Office under or in pursuance of any enactment, whether past or future, which provides for the registration of births, deaths, marriages or adoptions, or
- (c) except so far as provided by paragraph 4 of this Schedule, to records of the Duchy of Lancaster, or
- (d) to records of the office of the Public Trustee relating to individual trusts.

3.—(1) Without prejudice to the generality of sub-paragraph (1) of the last foregoing paragraph, the administrative and departmental records of bodies and establishments set out in the Table at the end of this paragraph shall be public records, whether or not they are records belonging to Her Majesty.

(2) The provisions of this paragraph shall not be taken as applying to records in any museum or gallery mentioned in the said Table which form part of its permanent collections (that is to say records which the museum or gallery has acquired otherwise than by transfer from or arrangements with a government department).

1ST SCH.  
—cont.

TABLE  
PART I  
BODIES AND ESTABLISHMENTS UNDER  
GOVERNMENT DEPARTMENTS

<i>Responsible Government Department</i>	
<i>Ministry of Agriculture, Fisheries and Food.</i>	Agricultural Wages Board. Agricultural Wages Committees. Organisation known as the "National Farm Survey". Official seed testing station for England and Wales.
<i>Air Ministry ... .. Ministry of Education</i>	Meteorological Office. Victoria and Albert Museum. Science Museum.
<i>Ministry of Health ...</i>	National Health Service Authorities other than local health authorities. National health service hospitals except— records of endowments passing to Boards of Governors under section seven of the National Health Service Act, 1946. records relating to funds held by Hospital Boards and Committees under sections fifty-nine and sixty of the said Act, and records of private patients admitted under section five of the said Act.
<i>Home Office ... ..</i>	Welsh Board of Health. Office of Commissioner of Police of the Metropolis. Office of Receiver for the Metropolitan Police District.
<i>Ministry of Labour and National Service.</i>	National Dock Labour Board. National Institute of Houseworkers Limited. Wages Boards and Wages Councils.
<i>Ministry of Pensions and National Insurance.</i>	National Insurance Advisory Committee. Industrial Injuries Advisory Council. National Insurance and Industrial Injuries Joint Authorities. Workmen's Compensation Supplementation Board. Pneumoconiosis and Byssinosis Benefit Board.
<i>Ministry of Transport and Civil Aviation.</i>	Air Transport Advisory Council. Air Registration Board.

## PART II

## OTHER ESTABLISHMENTS AND ORGANISATIONS

Anglo-Egyptian Resettlement Board.  
British Museum (including the Natural History Museum).  
Catering Wages Commission.  
Coal Industry Social Welfare Organisation.

Crown Agents for Overseas Governments and Administrations except when acting for governments or authorities outside Her Majesty's dominions.

1ST SCH.  
—cont.

Development Commission.  
Imperial War Museum.  
Irish Sailors' and Soldiers' Land Trust.  
London Museum.  
Monopolies Commission.  
National Coal Board.  
National Gallery.  
National Maritime Museum.  
National Parks Commission.  
National Portrait Gallery.  
National Savings Committee.  
Office of Registrar of Restrictive Trading Agreements.  
Remploy Limited.  
Royal Greenwich Observatory.  
Tate Gallery.  
Trustee Savings Banks Inspection Committee.  
United Kingdom Atomic Energy Authority.  
University Grants Committee.  
Wallace Collection.  
War Works Commission.

Any body established for the purpose of determining the boundaries of constituencies of the Parliament of the United Kingdom, or of local authorities in England or Wales.

*Records of courts and tribunals*

4.—(1) Subject to the provisions of this paragraph, records of the following descriptions shall be public records for the purposes of this Act:—

- (a) records of, or held in any department of, the Supreme Court (including any court held under a commission of assize);
- (b) records of county courts and of any other superior or inferior court of record established since the passing of the County Courts Act, 1846;
- (c) records of the Chancery Court of the County Palatine of Lancaster and of the Chancery Court of the County Palatine of Durham;
- (d) records of courts of quarter sessions;
- (e) records of magistrates' courts;
- (f) records of coroners' courts;
- (g) records of courts-martial held whether within or outside the United Kingdom by any of Her Majesty's forces raised in the United Kingdom;
- (h) records of naval courts held whether within or outside the United Kingdom under the enactments relating to merchant shipping;
- (i) records of any court exercising jurisdiction held by Her Majesty within a country outside Her dominions;
- (j) records of any tribunal (by whatever name called)—
  - (i) which has jurisdiction connected with any functions of a department of Her Majesty's Government in the United Kingdom; or

1ST SCH.  
—cont.

- (ii) which has jurisdiction in proceedings to which such a Government department is a party or to hear appeals from decisions of such a Government department;
- (k) records of the Lands Tribunal or of any Rent Tribunal or Local Valuation Court ;
- (l) records of the Industrial Court, of the Industrial Disputes Tribunal, and of the National Arbitration Tribunal (which was replaced by the Industrial Disputes Tribunal) ;
- (m) records of umpires and deputy-umpires appointed under the National Service Act, 1948, or the Reinstatement in Civil Employment Act, 1944 ;
- (n) records of ecclesiastical courts when exercising the testamentary and matrimonial jurisdiction removed from them by the Court of Probate Act, 1857, and the Matrimonial Causes Act, 1857, respectively ;
- (o) records of such other courts or tribunals (by whatever name called) as the Lord Chancellor may by order contained in a statutory instrument specify.

(2) This paragraph shall not apply to any court or tribunal whose jurisdiction extends only to Scotland or Northern Ireland.

(3) In this paragraph "records" includes records of any proceedings in the court or tribunal in question and includes rolls, writs, books, decrees, bills, warrants and accounts of, or in the custody of, the court or tribunal in question.

#### *Records of the Chancery of England*

5. The records of the Chancery of England shall be public records for the purposes of this Act.

#### *Records in Public Record Office*

6. Without prejudice to the foregoing provisions of this Schedule, public records for the purposes of this Act shall include—

- (a) all records within the meaning of the Public Record Office Act, 1838, or to which that Act was applied, which at the commencement of this Act are in the custody of the Master of the Rolls in pursuance of that Act, and
- (b) all records (within the meaning of the said Act or to which that Act was applied) which at the commencement of this Act are in the Public Record Office and, in pursuance of the said Act, under the charge and superintendence of the Master of the Rolls, and
- (c) all records forming part of the same series as any series of documents falling under sub-paragraph (a) or sub-paragraph (b) of this paragraph.

#### *Power to add further categories of records and to determine cases of doubt*

7.—(1) Without prejudice to the Lord Chancellor's power of making orders under paragraph 4 of this Schedule, Her Majesty may by Order in Council direct that any description of records not falling within the foregoing provisions of this Schedule shall be treated as

public records for the purposes of this Act but no recommendation shall be made to Her Majesty in Council to make an Order under this sub-paragraph unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.

1ST SCH.  
—cont.

(2) A question whether any records or description of records are public records for the purposes of this Act shall be referred to and determined by the Lord Chancellor and the Lord Chancellor shall include his decisions on such questions in his annual report to Parliament and shall from time to time compile and publish lists of the departments, bodies, establishments, courts and tribunals comprised in paragraphs 2, 3 and 4 of this Schedule and lists describing more particularly the categories of records which are, or are not, public records as defined in this Schedule.

### *Interpretation*

8. It is hereby declared that any description of government department, court, tribunal or other body or establishment in this Schedule by reference to which a class of public records is framed extends to a government department, court, tribunal or other body or establishment, as the case may be, which has ceased to exist, whether before or after the passing of this Act.

## SECOND SCHEDULE

Section 5.

### ENACTMENTS PROHIBITING DISCLOSURE OF INFORMATION OBTAINED FROM THE PUBLIC

The Land Registration Act, 1925 (15 & 16 Geo. 5. c. 21)	... ..	Section 112
The Import Duties Act, 1932 (22 & 23 Geo. 5. c. 58)	... ..	Section 10
The Ministry of Supply Act, 1939 (2 & 3 Geo. 6. c. 38)	... ..	Section 17
The War Damage Act, 1943 (6 & 7 Geo. 6. c. 21)	... ..	Section 118
The Coal Industry Nationalisation Act, 1946 (9 & 10 Geo. 6. c. 59)	... ..	Section 56
The Statistics of Trade Act, 1947 (10 & 11 Geo. 6. c. 39)	... ..	Section 9
The Cotton (Centralised Buying) Act, 1947 (10 & 11 Geo. 6. c. 26)	... ..	Section 23
The Industrial Organisation and Development Act, 1947 (10 & 11 Geo. 6. c. 40)	... ..	Section 5
The Agriculture Act, 1947 (10 & 11 Geo. 6. c. 48)	... ..	Section 80
The Cotton Spinning (Re-Equipment Subsidy) Act, 1948 (11 & 12 Geo. 6. c. 31)	... ..	Section 4
The Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948 (11 & 12 Geo. 6. c. 66)	... ..	Section 17

2ND SCH. —cont.	The Legal Aid and Advice Act, 1949 ... ..	Section 14
	(12 & 13 Geo. 6. c. 51)	
	The Legal Aid and Solicitors (Scotland) Act, 1949 ...	Section 15
	(12 & 13 Geo. 6. c. 63)	
	The Restrictive Trade Practices Act, 1956 ... ..	Section 33
(4 & 5 Eliz. 2. c. 68)		
The Cinematograph Films Act, 1957 ... ..	Section 5	
(5 & 6 Eliz. 2. c. 21)		
The Defence (General) Regulations, 1939 ... ..	Regulation 84	

Section 11.

## THIRD SCHEDULE

## CONSEQUENTIAL AMENDMENTS

*The Forgery Act, 1913 (3 & 4 Geo. 5. c. 27)*

In paragraph (d) of subsection (2) of section three the reference to a certified copy of a record purporting to be signed by an assistant keeper of the Public Records in England shall include a reference to a certified copy of a record purporting to be signed by the Keeper of Public Records or any officer of the Public Record Office authorised in that behalf by the Keeper of Public Records.

*The Public Records (Scotland) Act, 1937 (1 Edw. 8 & 1 Geo. 6. c. 43)*

In subsection (1) of section five the proviso (which requires the consent of the Master of the Rolls to the transmission of certain public records to the Keeper of the Records of Scotland) shall cease to have effect.

*The Copyright Act, 1956 (4 & 5 Eliz. 2. c. 74)*

As respects any reproduction made after the commencement of this Act, the reference in paragraph (a) of subsection (1) of section forty-two to records of the description there mentioned shall be taken as a reference to public records which are open to public inspection in pursuance of the provisions of this Act.

## FOURTH SCHEDULE

Section 13.

## REPEALS

Session and Chapter	Short Title	Extent of Repeal
1 & 2 Vict. c. 94.	The Public Record Office Act, 1838.	The whole Act.
5 Vict. c. 5.	The Court of Chancery Act, 1841.	Section seventeen.
40 & 41 Vict. c. 55.	The Public Record Office Act, 1877.	The whole Act.
57 & 58 Vict. c. 60.	The Merchant Shipping Act, 1894.	In section two hundred and fifty-six, subsection (2).
61 & 62 Vict. c. 12.	The Public Record Office Act, 1898.	The whole Act.
15 & 16 Geo. 5. c. 49.	The Supreme Court of Judicature (Consolidation) Act, 1925.	In section nineteen, paragraph (6). Sections one hundred and seventy-three and one hundred and ninety-nine.
1 Edw. 8 & 1 Geo. 6. c. 43.	The Public Records (Scotland) Act, 1937.	In section five, in subsection (1), the proviso. Section six.
9 & 10 Geo. 6. c. 59.	The Coal Industry Nationalisation Act, 1946.	Section fifty-one.
1 & 2 Eliz. 2. c. 47.	The Emergency Laws (Miscellaneous Provisions) Act, 1953.	In section thirteen, the words "and 9". In the First Schedule, paragraph 9.



Table of Statutes referred to in this Act

Short Title	Session and Chapter
Public Record Office Act, 1838 ... ..	1 & 2 Vict. c. 94.
Court of Chancery Act, 1841 ... ..	5 Vict. c. 5.
County Courts Act, 1846 ... ..	9 & 10 Vict. c. 95.
Court of Probate Act, 1857 ... ..	20 & 21 Vict. c. 77.
Matrimonial Causes Act, 1857 ... ..	20 & 21 Vict. c. 85.
Oxford University Act, 1860 ... ..	23 & 24 Vict. c. 91.
Public Record Office Act, 1877 ... ..	40 & 41 Vict. c. 55.
Merchant Shipping Act, 1894 ... ..	57 & 58 Vict. c. 60.
Public Record Office Act, 1898 ... ..	61 & 62 Vict. c. 12.
Forgery Act, 1913 ... ..	3 & 4 Geo. 5. c. 27.
Land Registration Act, 1925 ... ..	15 & 16 Geo. 5. c. 21.
Supreme Court of Judicature (Consolidation) Act, 1925 ... ..	15 & 16 Geo. 5. c. 49.
Import Duties Act, 1932 ... ..	22 & 23 Geo. 5. c. 8.
Public Records (Scotland) Act, 1937 ... ..	1 Edw. 8 & 1 Geo. 6. c. 43.
Ministry of Supply Act, 1939 ... ..	2 & 3 Geo. 6. c. 38.
War Damage Act, 1943 ... ..	6 & 7 Geo. 6. c. 21.
Reinstatement in Civil Employment Act, 1944 ...	7 & 8 Geo. 6. c. 15.
Coal Industry Nationalisation Act, 1946 ... ..	9 & 10 Geo. 6. c. 59.
National Health Service Act, 1946 ... ..	9 & 10 Geo. 6. c. 81.
Cotton (Centralised Buying) Act, 1947 ... ..	10 & 11 Geo. 6. c. 26.
Statistics of Trade Act, 1947 ... ..	10 & 11 Geo. 6. c. 39.
Industrial Organisation and Development Act, 1947	10 & 11 Geo. 6. c. 40.
Agriculture Act, 1947 ... ..	10 & 11 Geo. 6. c. 48.
Cotton Spinning (Re-Equipment Subsidy) Act, 1948	11 & 12 Geo. 6. c. 31.
National Service Act, 1948 ... ..	11 & 12 Geo. 6. c. 64.
Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948 ... ..	11 & 12 Geo. 6. c. 66.
Legal Aid and Advice Act, 1949 ... ..	12 & 13 Geo. 6. c. 51.
Legal Aid and Solicitors (Scotland) Act, 1949 ...	12 & 13 Geo. 6. c. 63.
Emergency Laws (Miscellaneous Provisions) Act, 1953 ... ..	1 & 2 Eliz. 2. c. 47.
Restrictive Trade Practices Act, 1956 ... ..	4 & 5 Eliz. 2. c. 68.
Copyright Act, 1956 ... ..	4 & 5 Eliz. 2. c. 74.
Cinematograph Films Act, 1957 ... ..	5 & 6 Eliz. 2. c. 21.

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# Public Records Act 1958

1958 CHAPTER 51 6 and 7 Eliz 2

An Act to make new provision with respect to public records and the Public Record Office, and for connected purposes. [23rd July 1958]

## Annotations:

### Modifications etc. (not altering text)

- C1** Act excluded by [Australian Constitution \(Public Record Copy\) Act 1990](#) (c.17, SIF 101), s. 1
- C2** Act modified (1.4.1996) by [1995 c. 25](#), s. 120(2), [Sch. 23 Pt. 1 para. 9](#) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- C3** Act restricted (1.4.1999) by [1998 c. 38](#), [s. 116\(1\)](#) (with s. 143(2)); S.I. 1999/782, [art. 2](#)  
Act modified (temp.) (1.4.1999) by [1998 c. 38](#), [s. 116\(2\)](#) (with s. 143(2)); S.I. 1999/782, [art. 2](#)
- C4** Act excluded (24.4.2000) by S.I. 2000/942, [art. 4](#)
- C5** Act applied (1.10.2007) by [Mental Capacity Act 2005](#) (c. 9), ss. 66(4), 68(1)-(3), [Sch. 5 para. 6\(1\)](#) (with ss. 27, 28, 29, 62); S.I. 2007/1897, [art. 2\(d\)](#)
- C6** Act restricted by [Government of Wales Act 2006](#) (c. 32), s. 146(1)(2)(3), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to [s. 161\(4\)\(5\)](#) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.  
Act modified (temp) by [Government of Wales Act 2006](#) (c. 32), s. 146(2), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to [s. 161\(4\)\(5\)](#) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

### Commencement Information

- I1** Act wholly in force at 1.1.1959 see [s. 13\(3\)](#).

## 1 General responsibility of the <sup>[F1]</sup>Secretary of State for public records.

- (1) <sup>[F2]</sup>The<sup>[F3]</sup>Secretary of State shall be generally responsible for the execution of this Act and shall supervise the care and preservation of public records.

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*Changes to legislation: Public Records Act 1958 is up to date with all changes known to be in force on or before 01 September 2017. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (2) There shall be an Advisory Council on Public Records to advise the [<sup>F4</sup>Secretary of State] on matters concerning public records in general and, in particular, on those aspects of the work of the Public Record Office which affect members of the public who make use of the facilities provided by the Public Record Office.

The Master of the Rolls shall be chairman of the said Council and the remaining members of the Council shall be appointed by the [<sup>F4</sup>Secretary of State] on such terms as he may specify.

- [<sup>F5</sup>(2A) The matters on which the Advisory Council on Public Records may advise the [<sup>F6</sup>Secretary of State] include matters relating to the application of the Freedom of Information Act 2000 to information contained in public records which are historical records within the meaning of Part VI of that Act.]
- (3) The [<sup>F7</sup>Secretary of State] shall in every year lay before both Houses of Parliament a report on the work of the Public Record Office, which shall include any report made to him by the Advisory Council on Public Records.

#### Annotations:

##### Amendments (Textual)

- F1** Words in s. 1 substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(b)**
- F2** Words in s. 1(1) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(2)**
- F3** Words in s. 1(1) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(a)**
- F4** Words in s. 1(2) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(a)**
- F5** S. 1(2A) inserted (30.11.2002) by [2000 c. 36, s. 67](#), **Sch. 5 Pt. I para. 1** (with ss. 56, 78); [S.I. 2002/2812, art. 2\(j\)](#)
- F6** Words in s. 1(2A) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(a)**
- F7** Words in s. 1(3) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(a)**

##### Modifications etc. (not altering text)

- C7** S. 1(1)(2): transfer of functions (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(a)**, (2)(a) (with art. 7)
- C8** S. 1(3): transfer of functions (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(a)**, (2)(a) (with art. 7)

## 2 The Public Record Office.

- (1) The [<sup>F8</sup>Secretary of State] may appoint a Keeper of Public Records to take charge under his direction of the Public Record Office and of the records therein and may, with the concurrence of the Treasury as to numbers and conditions of service, appoint such other persons to serve in the Public Record Office as he may think fit.
- (2) The Keeper of Public Records and other persons appointed under this Act shall receive such salaries and remuneration as the Treasury may from time to time direct.

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- (3) It shall be the duty of the Keeper of Public Records to take all practicable steps for the preservation of records under his charge.
- (4) The Keeper of Public Records shall have power to do all such things as appear to him necessary or expedient for maintaining the utility of the Public Record Office and may in particular—
- (a) compile and make available indexes and guides to, and calendars and texts of, the records in the Public Record Office;
  - (b) prepare publications concerning the activities of and facilities provided by the Public Record Office;
  - (c) regulate the conditions under which members of the public may inspect public and other records or use the other facilities of the Public Record Office;
  - (d) provide for the making and authentication of copies of and extracts from records required as evidence in legal proceedings or for other purposes;
  - (e) accept responsibility for the safe keeping of records other than public records;
  - (f) make arrangements for the separate housing of films and other records which have to be kept under special conditions;
  - (g) lend records, in a case where the [<sup>F9</sup>Secretary of State] gives his approval, for display at commemorative exhibitions or for other special purposes;
  - (h) acquire records and accept gifts and loans.
- (5) The [<sup>F10</sup>Secretary of State] may by regulations made with the concurrence of the Treasury and contained in a statutory instrument prescribe the fees which may be charged for the inspection of records under the charge of the Keeper of Public Records, for authenticated copies or extracts from such records and for other services afforded by officers of the Public Record Office and authorise the remission of the fees in prescribed cases.
- (6) Fees received under the last foregoing subsection shall be paid into the Exchequer.

**Annotations:**

**Amendments (Textual)**

- F8** Words in s. 2(1) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(c)**
- F9** Words in s. 2(4)(g) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(c)**
- F10** Words in s. 2(5) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(c)**

**Modifications etc. (not altering text)**

- C9** S. 2(1)(4)(g): transfer of functions (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(a)**, (2)(b) (with art. 7)
- C10** S. 2(5): transfer of functions (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(a)**, (2)(b) (with art. 7)

### 3 Selection and preservation of public records.

- (1) It shall be the duty of every person responsible for public records of any description which are not in the Public Record Office or a place of deposit appointed by the

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[<sup>F11</sup>Secretary of State] under this Act to make arrangements for the selection of those records which ought to be permanently preserved and for their safe-keeping.

- (2) Every person shall perform his duties under this section under the guidance of the Keeper of Public Records and the said Keeper shall be responsible for co-ordinating and supervising all action taken under this section.
- (3) All public records created before the year sixteen hundred and sixty shall be included among those selected for permanent preservation.
- (4) Public records selected for permanent preservation under this section shall be transferred not later than [<sup>F12</sup>20 years] after their creation either to the Public Record Office or to such other place of deposit appointed by the [<sup>F13</sup>Secretary of State] under this Act as the [<sup>F13</sup>Secretary of State] may direct:

Provided that any records may be retained after the said period if, in the opinion of the person who is responsible for them, they are required for administrative purposes or ought to be retained for any other special reason and, where that person is not the [<sup>F13</sup>Secretary of State], the [<sup>F13</sup>Secretary of State] has been informed of the facts and given his approval.

- [<sup>F14</sup>(4A) Until the end of the period of 10 years beginning with the commencement of section 45 of the Constitutional Reform and Governance Act 2010, subsection (4) has effect subject to any order made under subsection (2) of that section.]
- (5) The [<sup>F15</sup>Secretary of State] may, if it appears to him in the interests of the proper administration of the Public Record Office, direct that the transfer of any class of records under this section shall be suspended until arrangements for their reception have been completed.
- (6) Public records which, following the arrangements made in pursuance of this section, have been rejected as not required for permanent preservation shall be destroyed or, subject in the case of records for which some person other than the [<sup>F16</sup>Secretary of State] is responsible, to the approval of the [<sup>F16</sup>Secretary of State], disposed of in any other way.
- (7) Any question as to the person whose duty it is to make arrangements under this section with respect to any class of public records shall be referred to the [<sup>F17</sup>Secretary of State] for his decision.
- (8) The provisions of this section shall not make it unlawful for the person responsible for any public record to transmit it to the Keeper of the Records of Scotland or to the Public Record Office of Northern Ireland.

#### Annotations:

##### Amendments (Textual)

- F11** Words in s. 3(1) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(d)**
- F12** Words in s. 3(4) substituted (1.1.2013 for specified purposes, 1.1.2015 in so far as not already in force) by [Constitutional Reform and Governance Act 2010 \(c. 25\)](#), **ss. 45(1)(a)**, 52; [S.I. 2012/3001](#), art. 3(1)(a)(2), [Sch.](#); [S.I. 2014/3245](#), art. 2 (with transitional and saving provisions in [S.I. 2014/3249](#), arts. 2, 3, Schs. 1, 2)
- F13** Words in s. 3(4) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(d)**

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- F14** S. 3(4A) inserted (1.1.2013 for specified purposes, 1.1.2015 in so far as not already in force) by Constitutional Reform and Governance Act 2010 (c. 25), **ss. 45(1)(b), 52**; S.I. 2012/3001, art. 3(1)(a)(2), Sch.; S.I. 2014/3245, art. 2 (with transitional and saving provisions in S.I. 2014/3249, arts. 2, 3, Schs. 1, 2)
- F15** Words in s. 3(5) substituted (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), art. 1(2), **Sch. para. 1(3)(d)**
- F16** Words in s. 3(6) substituted (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), art. 1(2), **Sch. para. 1(3)(d)**
- F17** Words in s. 3(7) substituted (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), art. 1(2), **Sch. para. 1(3)(d)**

**Modifications etc. (not altering text)**

- C11** S. 3(4): savings for effect of 2012 c. 25, s. 45(1)(a) (1.1.2013) by The Public Records (Transfer to the Public Record Office) (Transitional and Saving Provisions) Order 2012 (S.I. 2012/3028), arts. 1(1), 2, 3
- C12** S. 3(4): transfer of functions (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), arts. 1(2), **6(1)(a), (2)(c)** (with art. 7)
- C13** S. 3(5)-(7): transfer of functions (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), arts. 1(2), **6(1)(a), (2)(c)** (with art. 7)

#### **4 Place of deposit of public records.**

- (1) If it appears to the [<sup>F18</sup>Secretary of State] that a place outside the Public Record Office affords suitable facilities for the safe-keeping and preservation of records and their inspection by the public he may, with the agreement of the authority who will be responsible for records deposited in that place, appoint it as a place of deposit as respects any class of public records selected for permanent preservation under this Act.
- (2) In choosing a place of deposit under this section for public records of—
- (a) courts of quarter sessions or magistrates' courts, or
  - (b) courts of coroners of counties or boroughs,
- the [<sup>F19</sup>Secretary of State] shall have regard to any arrangements made by the person for the time being responsible for the records with respect to the place where those records are to be kept and, where he does not follow any such arrangements, shall, so far as practicable, proceed on the principle that the records of any such court ought to be kept in the area of the [<sup>F20</sup>county] or county borough comprising the area for which the court acts or where it sits, except in a case where the authorities or persons appearing to the [<sup>F19</sup>Secretary of State] to be mainly concerned consent to the choice of a place of deposit elsewhere.
- (3) The [<sup>F21</sup>Secretary of State] may at any time direct that public records shall be transferred from the Public Record Office to a place of deposit appointed under this section or from such a place of deposit to the Public Record Office or another place of deposit.
- (4) Before appointing a place of deposit under this section as respects public records of a class for which the [<sup>F22</sup>Secretary of State] is not himself responsible, he shall consult with the Minister or other person, if any, who appears to him to be primarily concerned and, where the records are records of a court of quarter sessions the records of which are, apart from the provisions of this Act, subject to the directions of a *custos rotulorum*, the [<sup>F22</sup>Secretary of State] shall consult him.

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- (5) Public records in the Public Record Office shall be in the custody of the Keeper of Public Records and public records in a place of deposit appointed under this Act shall be in the custody of such officer as the <sup>F23</sup>Secretary of State] may appoint.
- (6) Public records in the Public Record Office or other place of deposit appointed by the <sup>F24</sup>Secretary of State] under this Act shall be temporarily returned at the request of the person by whom or department or office from which they were transferred.

**Annotations:**

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**Amendments (Textual)**

**F18** Words in s. 4(1) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(e)**

**F19** Words in s. 4(2) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(e)**

**F20** Words substituted by virtue of [Local Government Act 1972 \(c. 70\)](#), **s. 179(2)**

**F21** Words in s. 4(3) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(e)**

**F22** Words in s. 4(4) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(e)**

**F23** Words in s. 4(5) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(e)**

**F24** Words in s. 4(6) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(e)**

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**Modifications etc. (not altering text)**

**C14** S. 4(1)-(5): transfer of functions (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **6(1)(a)**, (2)(d) (with art. 7)

**5 Access to public records.**

- <sup>F25</sup>(1) .....
- (2) .....

<sup>F26</sup>(3) It shall be the duty of the Keeper of Public Records to arrange that reasonable facilities are available to the public for inspecting and obtaining copies of those public records in the Public Record Office which fall to be disclosed in accordance with the Freedom of Information Act 2000.]

- <sup>F27</sup>(4) .....

(5) The <sup>F28</sup>Secretary of State] shall, as respects all public records in places of deposit appointed by him under this Act outside the Public Record Office, require arrangements to be made for their inspection by the public comparable to those made for public records in the Public Record Office <sup>F29</sup> . . .

**Annotations:**

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**Amendments (Textual)**

**F25** S. 5(1)(2) repealed (1.1.2005) by [2000 c. 36, ss. 67, 86, 87\(3\)](#), [Sch. 5 Pt. I para. 2\(2\)](#), [Sch. 8 Pt. III \(with ss. 56, 78\)](#); [S.I. 2004/3122](#), **art. 2**

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- F26** S. 5(3) substituted (1.1.2005) by 2000 c. 36, ss. 67, 87(3), Sch. 5 Pt. I para. 2(3) (with ss. 56, 78); S.I. 2004/3122, **art. 2**
- F27** S. 5(4) repealed (1.1.2005) by 2000 c. 36, ss. 67, 86, 87(3), Sch. 5 Pt. I para. 2(4), Sch. 8 Pt. III (with ss. 56, 78); S.I. 2004/3122, **art. 2**
- F28** Words in s. 5(5) substituted (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), art. 1(2), **Sch. para. 1(3)(f)**
- F29** Words in s. 5(5) repealed (1.1.2005) by 2000 c. 36, ss. 67, 86, 87(3), Sch. 5 Pt. I para. 2(4), Sch. 8 Pt. III (with ss. 56, 78); S.I. 2004/3122, **art. 2**

**Modifications etc. (not altering text)**

- C15** S. 5(5): transfer of functions (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), arts. 1(2), **6(1)(a)**, (2)(e) (with art. 7)

## **6 Destruction of public records in Public Record Office or other place of deposit.**

If, as respects any public records in the Public Record Office or any place of deposit appointed under this Act, it appears to the Keeper of Public Records that they are duplicated by other public records which have been selected for permanent preservation or that there is some other special reason why they should not be permanently preserved, he may, with the approval of the [<sup>F30</sup>Secretary of State] and of the Minister or other person, if any, who appears to the [<sup>F30</sup>Secretary of State] to be primarily concerned with public records of the class in question, authorise the destruction of those records or, with that approval, their disposal in any other way.

**Annotations:**

**Amendments (Textual)**

- F30** Words in s. 6 substituted (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), art. 1(2), **Sch. para. 1(3)(g)**

**Modifications etc. (not altering text)**

- C16** S. 6: transfer of functions (9.12.2015) by The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897), arts. 1(2), **6(1)(a)**, (2)(f) (with art. 7)

## **7 Records for which Master of the Rolls remains responsible.**

- (1) Subject to the provisions of this section, the Master of the Rolls shall continue to be responsible for, and to have custody of, the records of the Chancery of England, including those created after the commencement of this Act, and shall have power to determine where the said records or any of them are for the time being to be deposited.
- (2) Section three and subsection (6) of section four of this Act shall not apply to any of the said records but if and so long as any of them are deposited in the Public Record Office those records shall be in the custody of the Keeper of Public Records and subject to the directions of the [<sup>F31</sup>Secretary of State] as in the case of any other records in the Public Record Office.
- (3) Subject to the foregoing provisions of this section, the Master of the Rolls shall not have charge and superintendence over, or custody of, any public records and any public records which at the commencement of this Act were in the custody of the Master of the Rolls (other than records of the Chancery of England) shall thereafter be in the



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custody of the Keeper of Public Records or such other officer as the [<sup>F32</sup>Secretary of State] may from time to time appoint.

**Annotations:**

**Amendments (Textual)**

**F31** Words in s. 7(2) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(h)**

**F32** Words in s. 7(3) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(h)**

**8 Court records.**

- (1) The Lord Chancellor shall be responsible for the public records of every court of record or magistrates' court which are not in the Public Record Office or a place of deposit appointed by [<sup>F33</sup>the Secretary of State] under this Act and shall have power to determine in the case of any such records [<sup>F34</sup>other than records of the Supreme Court,] the officer in whose custody they are for the time being to be:

<sup>F35</sup> . . .

[<sup>F36</sup>(1A) Records of the Supreme Court for which the Lord Chancellor is responsible under subsection (1) shall be in the custody of the chief executive of that court.]

- (2) [<sup>F37</sup>The power of the President of the Probate Division of the High Court under section one hundred and seventy of the <sup>M1</sup>Supreme Court of Judicature (Consolidation) Act 1925, to direct where the wills and other documents mentioned in that section are to be deposited and preserved (exercisable with the consent of the Lord Chancellor) shall be transferred to the Lord Chancellor.]

<sup>F38</sup>(3) . . . . .

- (4) Where any private documents have remained in the custody of a court in England or Wales for more than fifty years without being claimed, the Keeper of Public Records may, with the approval of the Master of the Rolls, require the documents to be transferred to the Public Record Office and thereupon the documents shall become public records for the purposes of this Act.

- (5) Section three of this Act shall not apply to such of the records of ecclesiastical courts described in paragraph (n) of sub-paragraph (1) of paragraph 4 of the First Schedule to this Act as are not held in any office of the [<sup>F39</sup>Senior Courts] or in the Public Record Office, but, if the Lord Chancellor after consulting the President of the [<sup>F40</sup>Family Division] so directs as respects any of those records, those records shall be transferred to such place of deposit as may be appointed by the [<sup>F41</sup>Secretary of State] and shall thereafter be in the custody of such officer as may be so appointed.

- (6) The public records which at the commencement of this Act are in the custody of the University of Oxford and which are included in the index a copy of which was transmitted to the principal probate registrar under section two of the <sup>M2</sup>Oxford University Act 1860, shall not be required to be transferred under the last foregoing subsection but the Lord Chancellor shall make arrangements with the University of Oxford as to the conditions under which those records may be inspected by the public.

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#### Annotations:

##### Amendments (Textual)

- F33** Words in s. 8(1) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(4)**
- F34** Words in s. 8(1) inserted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), **ss. 56(2)(a)**, 148; S.I. 2009/1604, **art. 2**
- F35** S. 8(1) proviso repealed by [Courts Act 1971 \(c. 23\)](#), **Sch. 11 Pt. II**
- F36** S. 8(1A) inserted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), **ss. 56(2)(b)**, 148; S.I. 2009/1604, **art. 2**
- F37** S. 8(2) repealed (E.W) by [Supreme Court Act 1981 \(c.54, SIF 37\)](#),s. 152(4), Sch.7
- F38** s. 8(3) repealed by [Administration of Justice Act 1969\(c.58\)](#), Sch. 2
- F39** S. 8(5): for the words "Supreme Court" or "Supreme Court of Judicature" wherever they occur there is substituted (1.10.2009) the words "Senior Courts" by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), **ss. 59, 148(1)**, **Sch. 11 para. 4**; S.I. 2009/1604, **art. 2**
- F40** Words substituted by [Administration of Justice Act 1970 \(c. 31\)](#), **Sch. 2 para. 19**
- F41** Words in s. 8(5) substituted (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), art. 1(2), **Sch. para. 1(3)(i)**

##### Marginal Citations

- M1** 1925 c. 49.
- M2** 1860 c. 91.

## 9 Legal validity of public records and authenticated copies.

- (1) The legal validity of any record shall not be affected by its removal under the provisions of this Act, or of the Public Record Office Acts 1838 to 1898, or by any provisions in those Acts with respect to its legal custody.
- (2) A copy of or extract from a public record in the Public Record Office purporting to be examined and certified as true and authentic by the proper officer and to be sealed or stamped with the seal of the Public Record Office shall be admissible as evidence in any proceedings without any further or other proof thereof if the original record would have been admissible as evidence in those proceedings.
- [<sup>F42</sup>(3) An electronic copy of or extract from a public record in the Public Record Office which—
- (a) purports to have been examined and certified as true and authentic by the proper officer; and
  - (b) appears on a website purporting to be one maintained by or on behalf of the Public Record Office,;
- shall, when viewed on that website, be admissible as evidence in any proceedings without further or other proof if the original record would have been admissible as evidence in those proceedings.]
- [<sup>F43</sup>(4)] [<sup>F44</sup>In this section any reference] to the proper officer is a reference to the Keeper of Public Records or any other officer of the Public Record Office authorised in that behalf by the Keeper of Public Records, and, in the case of copies and extracts made before the commencement of this Act, the deputy keeper of the records or any assistant record keeper appointed under the <sup>M3</sup>Public Record Office Act 1838.

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**Annotations:**

**Amendments (Textual)**

**F42** S. 9(3) inserted (4.2.2002) by S.I. 2001/4058, **art. 2(3)**

**F43** Words in s. 9(2) re-numbered as subsection (4) (4.2.2002) by S.I. 2001/4058, **art. 2(2)**

**F44** Words in s. 9(4) substituted (4.2.2002) by 2001/4058, art. 2(2)

**Marginal Citations**

**M3** 1838 c. 94.

**10 Interpretation.**

- (1) In this Act “public records” has the meaning assigned to it by the First Schedule to this Act and “records” includes not only written records but records conveying information by any other means whatsoever.
- (2) Where records created at different dates are for administrative purposes kept together in one file or other assembly all the records in that file or other assembly shall be treated for the purposes of this Act as having been created when the latest of those records was created.

<sup>F45</sup>**11 Public Record Office Acts to cease to have effect.**

.....

**Annotations:**

**Amendments (Textual)**

**F45** S. 11 repealed by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), s. 303(2), **Sch. 8**

**12 Northern Ireland.**

- (1) It shall be lawful for any government department or other body or person having the custody of any public records relating exclusively or mainly to Northern Ireland to transmit those records to the Public Record Office of Northern Ireland.

<sup>F46</sup>(2) .....

**Annotations:**

**Amendments (Textual)**

**F46** S.12(2) repealed by Northern Ireland Constitution Act 1973 (c. 36), **Sch. 6 Pt. I**

**13 Short title, repeals and commencement.**

- (1) This Act may be cited as the Public Records Act 1958.

<sup>F47</sup>(2) .....

- (3) This Act shall come into force on the first day of January, nineteen hundred and fifty-nine.

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**Annotations:**

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**Amendments (Textual)**

**F47** [S.13\(2\)](#) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. XI**

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## SCHEDULES

### FIRST SCHEDULE

Section 10.

#### DEFINITION OF PUBLIC RECORDS

##### Annotations:

##### Modifications etc. (not altering text)

- C17** Sch. 1 excluded by [Transport Act 1968 \(c. 73\), s. 144\(9\)](#)  
Sch. 1 excluded (E.W.S.) (1.4.1994) by [1993 c. 43, s. 125\(6\)](#); [S.I. 1994/571, art. 5](#) (with [art. 7](#)) (which exclusion was repealed (18.7.1996) by [1996 c. 42, s. 8\(2\)\(3\)](#))  
Sch. 1 excluded (E.W.S.) (18.9.1996) by [1996 c. 42, ss. 5\(3\), 8\(3\)](#)
- C18** Sch. 1: power to amend conferred (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 84](#); [S.I. 2011/2329, art. 3](#)

- 1 The provisions of this Schedule shall have effect for determining what are public records for the purposes of this Act.

#### *Departmental records*

- 2 (1) Subject to the provisions of this paragraph, administrative and departmental records belonging to Her Majesty, whether in the United Kingdom or elsewhere, in right of Her Majesty's Government in the United Kingdom and, in particular,—
- (a) records of, or held in, any department of Her Majesty's Government in the United Kingdom, or
  - (b) records of any office, commission or other body or establishment whatsoever under Her Majesty's Government in the United Kingdom,
- shall be public records.
- (2) Sub-paragraph (1) of this paragraph shall not apply—
- (a) to records of any government department or body which is wholly or mainly concerned with Scottish affairs, or which carries on its activities wholly or mainly in Scotland, or
  - (b) to registers or certified copies of entries in registers being registers or certified copies kept or deposited in the General Register Office under or in pursuance of any enactment, whether past or future, which provides for the registration of births, deaths, marriages [<sup>F48</sup>, civil partnerships] or adoptions, or
  - (c) except so far as provided by paragraph 4 of this Schedule, to records of the Duchy of Lancaster, or
  - (d) to records of the office of the Public Trustee relating to individual trusts [<sup>F49</sup> or
  - (e) to Welsh public records (as defined in [<sup>F50</sup>the Government of Wales Act 2006].]

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#### Annotations:

#### Amendments (Textual)

- F48** Words in Sch. 1 para. 2(2)(b) inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Overseas Relationships and Consequential, etc. Amendments\) Order 2005 \(S.I. 2005/3129\)](#), art. 4(1), **Sch. 1 para. 3**
- F49** Sch. 1 para. 2(2)(e) and “or” immediately preceding it inserted (1.4.1999) by [1998 c. 38, s. 125](#), **Sch. 12 para. 3(2)** (with [ss. 139\(2\), 143\(2\)](#)); [S.I. 1999/782](#), **art. 2**
- F50** Words in Sch. 1 para. 2(2)(e) substituted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160(1), {Sch. 10 para. 7(a)}, the amending provision coming into force immediately after “the 2007 election” (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of “the initial period” (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [ss. 46, 161\(1\)\(4\)\(5\)](#) of the amending Act.

- 3 (1) Without prejudice to the generality of sub-paragraph (1) of the last foregoing paragraph, the administrative and departmental records of bodies and establishments set out in the Table at the end of this paragraph shall be public records, whether or not they are records belonging to Her Majesty.
- (2) The provisions of this paragraph shall not be taken as applying to records in any museum or gallery mentioned in the said Table which form part of its permanent collections (that is to say records which the museum or gallery has acquired otherwise than by transfer from or arrangements with a government department).

## PART II

### **OTHER ESTABLISHMENTS AND ORGANISATIONS**

**F92**

...

Anglo-Egyptian Resettlement Board.

[**F93** Armouries]

[**F94** Arts and Humanities Research Council.]

[**F95** The Big Lottery Fund.]

[**F96** The Board of the Pension Protection Fund.]

[**F97** The Board of Trustees of the National Museums and Galleries on Merseyside.]

[**F98** British Coal Corporation]

[**F99** British Council.]

British Museum (including the Natural History Museum).

[**F100** Care Council for Wales.]

[**F101** The Care Quality Commission [**F102** and the Healthwatch England committee].]

Catering Wages Commission.

[**F103** Central Police Training and Development Authority]

[**F104** Child Maintenance and Enforcement Commission.]

**F105**  
...

[**F106** Civil Nuclear Police Authority.]

[**F107** Coal Authority]

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Coal Industry Social Welfare Organisation.

[<sup>F108</sup>Commission for Architecture and the Built Environment.]

[<sup>F109</sup>The Commission for Equality and Human Rights.]

F110  
...

F111  
...

[<sup>F112</sup>Commission on Industrial Relations]

[<sup>F113</sup>Commission for Patient and Public Involvement in Health.]

[<sup>F114</sup>Commission for Rural Communities.]

F115  
...

[<sup>F116</sup>The Committee on Climate Change.]

[<sup>F117</sup> The company that was nominated under section 62 of the Postal Services Act 2000 (reorganisation of the Post Office: transfer of property etc to nominated company). ]

[<sup>F118</sup>Competition and Markets Authority.]

F119  
...

[<sup>F120</sup>Competition Service]

[<sup>F121</sup>Compliance Officer for the Independent Parliamentary Standards Authority.]

F122  
...

[<sup>F123</sup>Consumer Council for Water.]

F124  
...

F125  
...

[<sup>F126</sup>Criminal Cases Review Commission]

[<sup>F127</sup>Crown Agents for Overseas Governments and Administrations (before and after their reconstitution as a body corporate)] except when acting for governments or authorities outside Her Majesty's dominions.

[<sup>F128</sup>Crown Agents Holding and Realisation Board.]

F129  
...

F130  
...

[<sup>F131</sup>A development agency established under section 1 of the Regional Development Agencies Act 1998.]

Development Commission.

[<sup>F132</sup>Director of Fair Access to Higher Education]

F133  
...

[<sup>F134</sup>Economic and Social Research Council.]

[<sup>F135</sup>Electoral Commission.]

F136  
...

[<sup>F137</sup>Engineering and Physical Sciences Research Council.]

F138  
...

[<sup>F139</sup>The Environment Agency]

[<sup>F140</sup> Funding Agency for Schools ]

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- [<sup>F141</sup>Further Education Funding Council for England.]
- F142  
...
- [<sup>F143</sup>Gambling Commission.]
- [<sup>F144</sup>Gangmasters and Labour Abuse Authority]
- ...
- [<sup>F145</sup>General Social Care Council.]
- F146  
...
- [<sup>F147</sup>General Teaching Council for Wales.]
- [<sup>F148</sup>Health Education England.]
- [<sup>F149</sup>Health Research Authority.]
- [<sup>F141</sup>Higher Education Funding Council for England.]
- F150  
...
- [<sup>F151</sup>Historic Buildings and Monuments Commission for England]
- [<sup>F152</sup>The Homes and Communities Agency.]
- [<sup>F153</sup>Human Tissue Authority.]
- Imperial War Museum.
- [<sup>F154</sup>Independent Office for Police Conduct.]
- [<sup>F155</sup>The Independent Parliamentary Standards Authority.]
- [<sup>F156</sup>Information Commissioner.]
- [<sup>F157</sup>Infrastructure Planning Commission.]
- Irish Sailors' and Soldiers' Land Trust.
- F158  
...
- [<sup>F159</sup>The Legal Services Board.]
- [<sup>F160</sup>The Legal Services Consultative Panel.]
- F161  
...
- [<sup>F162</sup>Local Better Regulation Office.]
- [<sup>F163</sup>Local Government Boundary Commission for England.]
- London Museum.
- [<sup>F164</sup>The Lord Chancellor's Advisory Committee on Legal Education and Conduct]
- F165  
...
- [<sup>F166</sup>The Marine Management Organisation.]
- [<sup>F167</sup>Medical Research Council.]
- F168  
...
- [<sup>F171</sup>National Audit Office]
- ...
- F172  
...
- F173  
...
- National Gallery.
- ...
- F174  
...



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National Maritime Museum.

...

F175 ...

National Portrait Gallery.

National Savings Committee.

[<sup>F176</sup>Natural England.]

[<sup>F177</sup>Natural Environment Research Council.]

F178 ...

...

[<sup>F179</sup>Nuclear Decommissioning Authority.]

[<sup>F180</sup>Occupational Pensions Regulatory Authority.]

[<sup>F181</sup>Office for Budget Responsibility.]

[<sup>F182</sup>Office of Communications.]

F183 ...

...

[<sup>F184</sup>The Office of the Health Professions Adjudicator.]

[<sup>F185</sup>The Office for Legal Complaints.]

[<sup>F186</sup>Office for Nuclear Regulation]

F187 ...

F188 ...

[<sup>F189</sup>Olympic Lottery Distributor.]

[<sup>F190</sup>The Ombudsman for the Board of the Pension Protection Fund.]

[<sup>F191</sup>Passengers' Council.]

[<sup>F192</sup>Pensions Compensation Board.]

[<sup>F193</sup>Pensions Ombudsman.]

[<sup>F194</sup>The Pensions Regulator.]

F195 ...

[<sup>F196</sup>Police Information Technology Organisation]

F197 ....

...

[<sup>F117</sup>A Post Office company within the meaning of Part 1 of the Postal Services Act 2011.]

[<sup>F198</sup>The Professional Standards Authority for Health and Social Care]

F199 ...

F200 ...

[<sup>F201</sup>Rail Passengers' Committees.]

F202 ...

[<sup>F203</sup>The Registrar of Consultant Lobbyists]

Remploy Limited.

[<sup>F204</sup>Royal Botanic Gardens, Kew]

Royal Greenwich Observatory.

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[<sup>F117</sup>A Royal Mail company within the meaning of Part 1 of the Postal Services Act 2011.]

[<sup>F205</sup>School Curriculum and Assessment Authority]

<sup>F206</sup> ...

[<sup>F207</sup>Science Museum]

[<sup>F208</sup>Security Industry Authority.]

<sup>F209</sup> ...

<sup>F210</sup> ...

<sup>F211</sup> ...

[<sup>F212</sup>The Simpler Trade Procedures Board.]

[<sup>F213</sup>Social Mobility and Child Poverty Commission]

[<sup>F214</sup>A strategic highways company for the time being appointed under Part 1 of the Infrastructure Act 2015.]

Tate Gallery.

<sup>F215</sup> ...

[<sup>F216</sup>Technology Strategy Board.]

[<sup>F217</sup>Traffic Director for London]

<sup>F218</sup> ...

<sup>F219</sup> . . .

[<sup>F220</sup>The trustee corporation established by section 75 of the Pensions Act 2008.]

Trustee Savings Banks Inspection Committee.

United Kingdom Atomic Energy Authority.

University Grants Committee.

[<sup>F221</sup>Valuation Tribunal Service.]

[<sup>F222</sup>Victoria and Albert Museum]

Wallace Collection.

War Works Commission.

<sup>F223</sup> ...

Any body established for the purpose of determining the boundaries of constituencies of the Parliament of the United Kingdom, or of local authorities in England <sup>F224</sup>....

TABLE

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PART I

**BODIES AND ESTABLISHMENTS  
UNDER GOVERNMENT DEPARTMENTS**

**Responsible Government Department**

[<sup>F51</sup>Department for Environment, Food  
and Rural Affairs.]

<sup>F52</sup> ...  
Agricultural Wages Committees.  
Organisation known as the “National  
Farm Survey”.

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	Official seed testing station for England and Wales.
[ <sup>F53</sup> Department for Business, Energy and Industrial Strategy]	Meteorological Office.
F54	F55
. . .	. . .
[ <sup>F56</sup> Department of Health]	National Health Service Authorities [ <sup>F57</sup> including [ <sup>F58</sup> the National Health Service Commissioning Board, clinical commissioning groups,][ <sup>F59</sup> Primary Care Trusts][ <sup>F60</sup> , National Health Service trusts and NHS foundation trusts]] other than local health authorities [ <sup>F61</sup> and Authorities for districts or localities in Wales, or for areas in or consisting of Wales (including National Health Service trusts all of whose hospitals, establishments and facilities are situated in Wales)].
	[ <sup>F62</sup> Family Practitioner Committees][ <sup>F63</sup> for localities in England]
	[ <sup>F64</sup> health service hospitals, within the meaning of the National Health Service Act 1977][ <sup>F65</sup> , in England] except— records of endowments passing to Boards of Governors under section seven of the National Health Service Act 1946.
	records relating to funds held by Hospital Boards and Committees under sections fifty-nine and sixty of the said Act, and records of private patients admitted under section five of the said Act.
	[ <sup>F66</sup> records of property passing to [ <sup>F67</sup> Regional, Area or District] Health Authorities or special health authorities under sections 23 to 26 of the <sup>M4</sup>
	National Health Service Reorganisation Act 1973 [ <sup>F68</sup> , section 92 of the National Health Service Act 1977, section 213 of the National Health Service Act 2006 or section 161 of the National Health Service (Wales) Act 2006]
	records of property held by a [ <sup>F69</sup> Regional, Area or District] Health Authority or special health authority

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under section 21 or 22 of the said Act 1973][<sup>F70</sup>, section 90 or 91 of the National Health Service Act 1977, section 218 of the National Health Service Act 2006 or paragraph 8 of Schedule 6 to that Act, or paragraph 8 of Schedule 5 to the National Health Service (Wales) Act 2006] [<sup>F71</sup>records of trust property passing to [<sup>F72</sup>the National Health Service Commissioning Board, a clinical commissioning group,] a [<sup>F73</sup>Strategic Health Authority, Health Authority, Special Health Authority or Primary Care Trust] by virtue of the Health Authorities Act 1995 [<sup>F74</sup>, under section 213 of the National Health Service Act 2006 or section 161 of the National Health Service (Wales) Act 2006,][<sup>F75</sup>or section 300 of the Health and Social Care Act 2012] or held by [<sup>F76</sup> the National Health Service Commissioning Board, a clinical commissioning group or][<sup>F77</sup>a Strategic Health Authority or] a Health Authority under section 90 or 91 of [<sup>F78</sup>the National Health Service Act 1977, section 218 of the National Health Service Act 2006, paragraph 12 of Schedule 2 to, or paragraph 8 of Schedule 6 to, that Act, or [<sup>F79</sup>by virtue of section 2 and section 13X of, or paragraph 20 of Schedule 1A to, that Act, or under] paragraph 8 of Schedule 5 to the National Health Service (Wales) Act 2006].]

<sup>F80</sup>

...

*Home Office*

Office of Commissioner of Police of the Metropolis.  
Office of Receiver for the Metropolitan Police District.

[<sup>F81</sup>Department of Employment]

National Dock Labour Board.  
National Institute of Houseworkers Limited.  
Wages Boards and Wages Councils.

[<sup>F82</sup>Department of Social Security]

National Insurance Advisory Committee.  
Industrial Injuries Advisory Council.  
[<sup>F83</sup>Attendance Allowance Board.]

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	National Insurance and Industrial Injuries Joint Authorities. Workmen's Compensation Supplementation Board. Pneumoconiosis and Byssinosis Benefit Board. F84 ... F85 ...
[ <sup>F86</sup> Department of Transport]	Air Transport Advisory Council. Air Registration Board. [ <sup>F87</sup> Airworthiness Requirements Board, Civil Aviation Authority.] [ <sup>F88</sup> Strategic Rail Authority.]
[ <sup>F89</sup> Ministry of Justice]	[ <sup>F90</sup> Legal Aid Board] F91 ...

#### Annotations:

##### Amendments (Textual)

- F51** Sch. 1 para. 3 Table Pt. I: words substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 10** (with arts. 5(3), 6)
- F52** Words in Sch. 1 para. 3 Table Pt. I repealed (25.6.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 20 para. 2**; S.I. 2013/1455, art. 2(c), Sch. 1 (with art. 4(2))
- F53** Words in Sch. 1 para. 3 Table Pt. I substituted (9.11.2016) by The Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016 (S.I. 2016/992), art. 1(2), **Sch. para. 1** (with art. 13)
- F54** Sch. 1 para. 3 Table Pt. I: entries repealed by National Heritage Act 1983 (c. 47, SIF 78), s. 40, **Sch. 6**
- F55** Sch. 1 para. 3 Table Pt. I: entries repealed by National Heritage Act 1983 (c. 47, SIF 78), s. 40, **Sch. 6**
- F56** Sch. 1 para. 3 Table Pt. I: words substituted by virtue of S.I. 1988/1843, **art. 2**
- F57** Sch. 1 para. 3 Table Pt. I: words inserted (E.W.S.) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 6(a)**
- F58** Words in Sch. 1 para. 3(2) Table Pt. I inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 6(a)**; S.I. 2012/1831, art. 2(2) (with art. 14)
- F59** Sch. 1 para. 3 Table Pt. I: words inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 3**
- F60** Sch. 1 para. 3 Table Pt. I: words substituted (1.4.2004 for E. W.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 6**; S.I. 2004/759, **art. 2**
- F61** Sch. 1 para. 3 Table Pt. I: words in entry relating to "National Health Service Authorities" inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 3(3)(a)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F62** Sch. 1 para. 3 Table Pt. I: entry inserted (E.W.) by S.I. 1985/39, **art. 4**
- F63** Sch. 1 para. 3 Table Pt. I: words in entry relating to "Family Practitioner Committees" inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 3(3)(b)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F64** Sch. 1 para. 3 Table Pt. I: for the words "National health service hospitals" there are substituted (E.W.S) the words "health service hospitals, within the meaning of the National Health Service Act 1977" by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 6(b)**
- F65** Sch. 1 para. 3 Table Pt. I: words in entry relating to "health service hospitals" inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 3(3)(c)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F66** Words inserted by National Health Service Reorganisation Act 1973 (c. 32), **Sch. 4 para. 82**
- F67** Sch. 1 para. 3 Table Pt. I: words substituted by Health Services Act 1980 (c. 53, SIF 113:2), **Sch. 1 Pt. I para. 12**

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- F68** Sch. 1 para. 3 Table Pt. I: words in "the first entry relating to the Department of Health and Social Security" substituted (1.3.2007) by virtue of [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), ss. 2, 8\(2\), Sch. 1 para. 21\(a\)](#) (with Sch. 3 Pt. 1)
- F69** Sch. 1 para. 3 Table Pt. I: words substituted by [Health Services Act 1980 \(c. 53, SIF 113:2\), Sch. 1 Pt. I para. 12](#)
- F70** Sch. 1 para. 3 Table Pt. I: words in "the first entry relating to the Department of Health and Social Security" substituted (1.3.2007) by virtue of [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), ss. 2, 8\(2\), Sch. 1 para. 21\(b\)](#) (with Sch. 3 Pt. 1)
- F71** Sch. 1 Pt. 1 para. 3 Table Pt. I: words in entry relating to Department of Health inserted (28.6.1995 for certain purposes otherwise 1.4.1996) by [1995 c. 17, s. 2\(1\)\(3\), Sch. 1 Pt. III para. 90](#) (with Sch. 2 para. 6)
- F72** Words in Sch. 1 para. 3(2) Table Pt. I inserted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 6\(b\)](#); S.I. 2012/1831, art. 2(2) (with art. 14)
- F73** Sch. 1 para. 3 Table Pt. I: words substituted (1.10.2002) by S.I. 2002/2469, reg. 4, [Sch. 1 Pt. 1 para. 1\(a\)](#)
- F74** Sch. 1 para. 3 Table Pt. I: words in "the first entry relating to the Department of Health and Social Security" substituted (1.3.2007) by virtue of [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), ss. 2, 8\(2\), Sch. 1 para. 21\(c\)](#) (with Sch. 3 Pt. 1)
- F75** Words in Sch. 1 para. 3(2) Table Pt. I inserted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 6\(c\)](#); S.I. 2012/1831, art. 2(2) (with art. 14)
- F76** Words in Sch. 1 para. 3(2) Table Pt. II inserted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 6\(d\)](#); S.I. 2012/1831, art. 2(2) (with art. 14)
- F77** Sch. 1 para. 3 Table Pt. I: words inserted (1.10.2002) by S.I. 2002/2469, reg. 4, [Sch. 1 Pt. 1 para. 1\(b\)](#)
- F78** Sch. 1 para. 3 Table Pt. I: words in "the first entry relating to the Department of Health and Social Security" substituted (1.3.2007) by virtue of [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), ss. 2, 8\(2\), Sch. 1 para. 21\(d\)](#) (with Sch. 3 Pt. 1)
- F79** Words in Sch. 1 para. 3(2) Table Pt. II inserted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 6\(e\)](#); S.I. 2012/1831, art. 2(2) (with art. 14)
- F80** Sch. 1 para. 3 Table Pt. I: entry relating to "Welsh Board of Health" repealed (1.4.1999) by [1998 c. 38, s. 152, Sch. 18 Pt. II](#) (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/782, [art. 2](#)
- F81** Words substituted by virtue of [S.I. 1959/1769 \(1959 I, p. 1795\), art. 2\(1\), S.I. 1968/729, art. 3\(2\)](#) and [S.I. 1970/1537, art. 3](#)
- F82** Sch. 1 para. 3 Table Pt. I: words substituted by virtue of [S.I. 1988/1843, art. 3](#)
- F83** Words inserted by [National Insurance \(Old persons' and widows' pensions and attendance allowance\) Act 1970 \(c. 51\), Sch. 2 para. 2](#) and by [Social Security Act 1973 \(c. 38\), Sch. 27 para. 19\(b\)](#)
- F84** Sch. 1 para. 3 Table Pt. I: words repealed (6.4.1997) by [1995 c. 26, ss. 151, 177, 180\(1\), Sch. 5 para. 1\(a\), Sch. 7 Pt. III](#); S.I. 1997/664, art. 2, [Sch. Pt. II](#)
- F85** Words repealed by [Social Security Pensions Act 1975 \(c. 60\), Sch. 5](#)
- F86** Sch. 1 para. 3 Table Pt. I: words substituted by virtue of [S.I. 1959/1768 \(1959 I, p.1793\), arts. 2\(1\), 4\(1\), S.I. 1966/741, arts. 2\(1\), 3\(1\), S.I. 1966/1015, arts. 2\(1\), 3, S.I. 1970/1537, arts. 2\(1\), 7\(4\), S.I. 1974/692, arts. 2\(3\), 5\(3\) and S.I. 1983/1127, art. 2](#)
- F87** Sch. 1 para. 3 Table Pt. I: words included by virtue of [Civil Aviation Act 1982 c. 16, SIF 9](#), Sch. 15 para. 3
- F88** Sch. 1 para. 3 Table Pt. I: words inserted (15.1.2001) by [2000 c. 38, s. 204, Sch. 14 para. 26](#); S.I. 2000/3376, [art. 2](#)
- F89** Sch. 1 para. 3 Table Pt. I: words substituted (22.8.2007) by [The Secretary of State for Justice Order 2007 \(S.I. 2007/2128\), art. 8, Sch. para. 3](#)
- F90** Sch. 1 para. 3 Table Pt. I: words inserted by [Legal Aid Act 1988 \(c. 34, SIF 77:1\), s. 45, Sch. 5 para. 1](#)
- F91** Words in Sch. 1 para. 3 Table Pt. I omitted (1.4.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 5 para. 1](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in [S.I. 2013/534, art. 6](#))
- F92** Sch. 1 para. 3 Table Pt. II: entry repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), ss. 157, 184, 188, Sch. 14 para. 1, Sch. 18 Pt. 5](#); S.I. 2007/935, [art. 5\(gg\)\(ii\)](#)
- F93** Table Pt. II: entries inserted by [National Heritage Act 1983 \(c. 47, SIF 78\), s. 40\(1\), Sch. 5 para. 3](#)
- F94** Sch. 1 para. 3 Table Pt. II: entry inserted (1.9.2009) by [The Public Records \(Designation of Bodies\) Order 2009 \(S.I. 2009/1744\), art. 2](#)

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- F95** Sch. 1 para. 3 Table Pt. II: entry inserted by 1993 c. 39, Sch. 4A para. 15 (as inserted (1.8.2006) by National Lottery Act 2006 (c. 23), ss. 14, 22, **Sch. 2**; S.I. 2006/2177, **art. 2**)
- F96** Sch. 1 para. 3 Table Pt. II: entry inserted (6.4.2005) by Pensions Act 2004 (c. 35), ss. 319, 322, **Sch. 12 para. 1**; S.I. 2005/275, **art. 2(7)**, Sch. Pt. 7 (subject to art. 2(12))
- F97** Table Pt. II: entry inserted by S.I. 1990/1765, **art. 3(2)**
- F98** Table Pt. II: entry inserted by Coal Industry Act 1987 (c. 3, SIF 86), s. 1(2), **Sch. 1 para. 6**
- F99** Sch. 1 para. 3 Table Pt. II: entry inserted (1.4.2003) by The Public Records (Designation of Bodies) Order 2003 (S.I. 2003/438), **art. 2**
- F100** Sch. 1 para. 3 Table Pt. II: entry inserted (1.4.2001 for W.) by 2000 c. 14, ss. 54, 66, **Sch. 1 para. 22**; S.I. 2000/2992, **art. 2(2)**, **Sch. 2**
- F101** Sch. 1 para. 3 Table Pt. II: entry inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 54(b)**; S.I. 2008/2497, **art. 2(1)(q)(i)**
- F102** Words in Sch. 1 para. 3 Table Pt. 2 inserted (27.3.2012 for specified purposes) by Health and Social Care Act 2012 (c. 7), **ss. 181(13)(a)**, 306(1)(d)(4)
- F103** Sch. 1 para. 3 Table Pt. II: entry inserted (1.4.2002) by 2001 c. 16, s. 102, **Sch. 4 para. 1**; S.I. 2002/533, **art. 2(d)**
- F104** Sch. 1 para. 3 Table Pt. II: entry inserted (10.6.2008 for certain purposes and 24.7.2008 otherwise) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 1, 62, **Sch. 1 para. 24**; S.I. 2008/1476, **art. 2(1)**; S.I. 2008/2033, **art. 2(1)**
- F105** Words in Sch. 1 para. 3 Table Pt. II repealed (8.5.2012) by Welfare Reform Act 2012 (c. 5), s. 150(2)(j), **Sch. 13 para. 14(a)**
- F106** Sch. 1 para. 3 Table Pt. II: entry inserted (1.3.2005) by Energy Act 2004 (c. 20), ss. 69, 198(2), **Sch. 14 para. 1**; S.I. 2005/442, **art. 2(1)**, Sch. 1
- F107** Sch. 1 para. 3 Table Pt. II: entry inserted (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9 para. 6** (with ss. 40(7), 66); S.I. 1994/2553, **s. 68(2)(d)**, art. 2
- F108** Sch. 1 para. 3 Table Pt. II: entry inserted (1.1.2006) by Clean Neighbourhoods and Environment Act 2005 (c. 16), ss. 87, 108, **Sch. 2 para. 12**; S.I. 2005/3439, **art. 2**
- F109** Sch. 1 para. 3 Table Pt. II: entry inserted (18.4.2006) inserted by Equality Act 2006 (c. 3), ss. 2, 93, **Sch. 1 para. 47**; S.I. 2006/1082, **art. 2(a)(l)**
- F110** Sch. 1 para. 3 Table Pt. II: entries repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199(1)(4), **Sch. 14 Pt. 2**; S.I. 2004/759, **art. 13(2)(a)**
- F111** Sch. 1 para. 3 Table Pt. II: entry repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(3), Sch. 5 para. 54(a), **Sch. 15 Pt. 1**; S.I. 2009/462, **art. 2**, Sch. 1 paras. 35(u), 36
- F112** Entry inserted (E.W.S.) by Employment Protection Act 1975 (c. 71), **Sch. 16 Pt. IV para. 6**
- F113** Sch. 1 para. 3 Table Pt. II: entry inserted (1.1.2003) by 2002 c. 17, s. 20(11), **Sch. 6 para. 16**; S.I. 2002/3190, **art. 2(2)(a)**
- F114** Sch. 1 para. 3 Table Pt. II: entry inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 34(2)**; S.I. 2006/1176, **art. 4**
- F115** Sch. 1 para. 3 Table Pt. II: entry repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(3), Sch. 5 para. 54(a), **Sch. 15 Pt. 1**; S.I. 2009/462, **art. 2**, Sch. 1 paras. 35(u), 36
- F116** Sch. 1 para. 3 Table Pt. II: entry inserted (26.11.2008) by Climate Change Act 2008 (c. 27), ss. 32(2), 100(1), **Sch. 1 para. 28**
- F117** Words in Sch. 1 para. 3 Table Pt. II inserted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 82(3)**; S.I. 2011/2329, art. 3
- F118** Words in Sch. 1 para. 3 Table Pt. II inserted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 4 para. 21**; S.I. 2013/2227, art. 2(j) (with art. 3)
- F119** Words in Sch. 1 para. 3 Table Pt. II omitted (1.4.2014) by virtue of The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 25** (with art. 3)
- F120** Sch. 1 para. 3 Table Pt. II: entry inserted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 3(2)(b); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

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- F121** Words in Sch. 1 para. 3 Table Pt. II inserted by 2009 c. 13, Sch. 2 para. 12 (as substituted (19.4.2010) by Constitutional Reform and Governance Act 2010 (c. 25), ss. 26(2), 52, **Sch. 3**; S.I. 2010/1277, art. 2(a)(c))
- F122** Sch. 1 para. 3 Table Pt. II: entries repealed (1.10.2008) by Consumers, Estate Agents and Redress Act 2007 (c. 17), ss. 64, 66, **Sch. 8**; S.I. 2008/2550, **art. 2**, Sch. (subject to art. 3)
- F123** Sch. 1 para. 3 Table Pt. II: entry inserted (1.10.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 7 para. 16**; S.I. 2005/2714, **art. 2(I)(i)** (with Sch. 2 para. 8)
- F124** Words in Sch. 1 para. 3 Table Pt. II omitted (1.12.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 69(1)(a)**; S.I. 2012/2657, art. 2(3)
- F125** Sch. 1 para. 3 Table Pt. II: entry repealed (1.4.1999) by 1998 c. 38, s. 152, **Sch. 18 Pt. II** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/782, **art. 2**
- F126** Sch. 1 para. 3 Table Pt. II: entry inserted (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2 para. 3**; S.I. 1997/402, **art. 3(e)** (with art. 4)
- F127** Words substituted by Crown Agents Act 1979 (c. 43), s. 32(1), **Sch. 6 Pt. I**
- F128** Entry inserted by Crown Agents Act 1979 (c. 43), s. 32(1), **Sch. 6 Pt. I**
- F129** Sch. 1 para. 3 Table Pt. II: entry repealed (1.4.1999) by 1998 c. 38, s. 152, **Sch. 18 Pt. II** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/782, **art. 2**
- F130** Sch. 1 para. 3 Table Pt. II: entry repealed (30.1.2001) by 2000 c. 36, ss. 18(4), 86, 87(2), Sch. 2 Pt. I para. 3(1), **Sch. 8 Pt. II** (with ss. 7(1)(7), 56, 78)
- F131** Sch. 1 para. 3 Table Pt. II: entry inserted (25.11.1998 for the purposes of regional development agencies established on that date and 3.7.2000 otherwise) by 1998 c. 45, ss. 32, 43, **Sch. 7 para. 1**; S.I. 1998/2952, **art. 2(2)**; S.I. 2000/1173, **art. 2(2)(c)**
- F132** Sch. 1 para. 3 Table Pt. II: entry inserted (1.7.2004) by Higher Education Act 2004 (c. 8), ss. 49, 52(1), **Sch. 6 para. 1**
- F133** Sch. 1 para. 3 Table Pt. II: entry repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 91, 93, Sch. 3 para. 1, **Sch. 4**; S.I. 2007/2603, **art. 2**
- F134** Sch. 1 para. 3 Table Pt. II: entry inserted (1.9.2009) by The Public Records (Designation of Bodies) Order 2009 (S.I. 2009/1744), **art. 2**
- F135** Sch. 1 para. 3 Table Pt. II: entry inserted (16.2.2001) by 2000 c. 41, s. 158(1), **Sch. 21 para. 1**; S.I. 2001/222, **art. 2 Sch. 1 Pt. I**
- F136** Sch. 1 para. 3 Table Pt. II: entries relating to "Employment Service Agency", "Manpower Services Commission" and "Training Services Agency" repealed (E.W.S.) by Employment Protection Act 1975 (c. 71), s. 125, **Sch. 18**
- F137** Sch. 1 para. 3 Table Pt. II: entry inserted (1.9.2009) by The Public Records (Designation of Bodies) Order 2009 (S.I. 2009/1744), **art. 2**
- F138** Sch. 1 para. 3 Table Pt. II: entries repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 34(3), **Sch. 12**; S.I. 2006/2541, **art. 2** (with Sch.)
- F139** Sch. 1 para. 3 Table Pt. II: entry inserted (28.7.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 4** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/1983, **art. 2**
- F140** Sch. 1 para. 3 Table Pt. II: entry inserted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 34**; S.I. 1994/507, art. 4(1), **Sch. 2**
- F141** Sch. 1 para. 3 Table Pt. II: entries inserted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93, **Sch. 8 Pt. II para. 68**; S.I. 1992/831, art. 2, **Sch. 1**
- F142** Sch. 1 para. 3 Table Pt. II: entries repealed (1.4.1999) by 1998 c. 38, s. 152, **Sch. 18 Pt. II**; S.I. 1999/782, **art. 2**
- F143** Sch. 1 para. 3 Table Pt. II: entry inserted (1.10.2013) by The Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013 (S.I. 2013/2329), art. 1(2), **Sch. para. 17(a)** (with art. 8, Sch. para. 43)
- F144** Words in Sch. 1 para. 3 Table Pt. II substituted (12.7.2016) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 3 para. 1**; S.I. 2016/603, reg. 3(u)
- F145** Sch. 1 para. 3 Table Pt. II: entry inserted (7.5.2001 for E.) by 2000 c. 14, s. 6, **Sch. 1 para. 22**; S.I. 2001/1536, **art. 2(2)**



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- F146** Words in Sch. 1 para. 3 Table Pt. II omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 2 para. 21**; S.I. 2012/924, art. 2
- F147** Sch. 1 para. 3 Table Pt. II: entry inserted (1.9.2000) by 1998 c. 30, s. 44(1), **Sch. 3 para. 1** (with s. 42(8)); S.I. 2000/970, **art. 3**
- F148** Words in Sch. 1 para. 3 Table Pt. II inserted (1.4.2015) by Care Act 2014 (c. 23), s. 127(1), **Sch. 5 para. 29**; S.I. 2014/3186, art. 2(f)
- F149** Words in Sch. 1 para. 3 Table Pt. II inserted (1.1.2015) by Care Act 2014 (c. 23), s. 127(1), **Sch. 7 para. 21**; S.I. 2014/2473, art. 5(m)
- F150** Sch. 1 para. 3 Table Pt. II: entry repealed (1.4.1999) by 1998 c. 38, s. 152, **Sch. 18 Pt. II** (ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/782, **art. 2**
- F151** Table Pt. II: entries inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 40(1), **Sch. 5 para. 3**
- F152** Sch. 1 para. 3 Table Pt. II: entry inserted (8.9.2008) by Housing and Regeneration Act 2008 (c. 17), ss. 56, 325, **Sch. 8 para. 1**; S.I. 2008/2358, arts. 1(2), 2
- F153** Sch. 1 para. 3 Table Pt. II: entry inserted (1.4.2005) by Human Tissue Act 2004 (c. 30), ss. 13, 60, **Sch. 2 para. 23**; S.I. 2005/919, **art. 3**, Sch. (with art. 2)
- F154** Sch. 1 para. 3 Table Pt. II inserted (31.1.2017 for specified purposes) by Policing and Crime Act 2017 (c. 3), **ss. 35(1)**, 183(1)(5)(e) (with s. 35(2)(3))
- F155** Sch. 1 para. 3 Table Pt. II: entry inserted (12.10.2009) by Parliamentary Standards Act 2009 (c. 13), ss. 3(2), 14(3), **Sch. 1 para. 28** (with ss. 1, 2(1)); S.I. 2009/2500, **art. 2(d)**
- F156** Sch. 1 para. 3 Table Pt. II: entry inserted (30.1.2001) by 2000 c. 36, ss. 18(4), 87(2), **Sch. 2 Pt. I para. 3(1)** (with ss. 7(1)(7), 56, 78)
- F157** Sch. 1 para. 3 Table Pt. II: entry inserted (1.10.2009) by Planning Act 2008 (c. 29), ss. 1(3), 241(8), **Sch. 1 para. 26** (with s. 226); S.I. 2009/2260, **art. 2**; S.I. 2009/2573, **art. 2**
- F158** Sch. 1 para. 3 Table Pt. II entry repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2), Sch. 1 para. 1(a), **Sch. 2 Pt. 1** (with art. 2(3))
- F159** Sch. 1 para. 3 Table Pt. II: entry inserted (7.3.2008) by Legal Services Act 2007 (c. 29), ss. 2, 211, **Sch. 1 para. 32** (with ss. 29, 192, 193); S.I. 2008/222, **art. 2(b)(h)**
- F160** Sch. 1 para. 3 Table Pt. II: entry inserted (1.1.2000) by 1999 c. 22, s. 35(5); S.I. 1999/3344, **art. 2(a)**
- F161** Words in Sch. 1 repealed (31.12.2011) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 23** (with ss. 29, 192, 193); S.I. 2010/2089, art. 4(b)(i)
- F162** Sch. 1 para. 3 Table Pt. II: entry inserted (1.10.2008) by Regulatory Enforcement and Sanctions Act 2008 (c. 13), ss. 1(3), 76(1), **Sch. 1 para. 16**; S.I. 2008/2371, **art. 2(a)**
- F163** Words in Sch. 1 para. 3 Table Pt. II inserted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(3)(b), **Sch. 1 para. 19**; S.I. 2009/3318, art. 4(dd)
- F164** Sch. 1 para. 3 Table Pt. II: entry inserted (1.4.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 1(I)**; S.I. 1991/608, art. 2, **Sch.**
- F165** Sch. 1 para. 3 Table Pt. II: entries relating to "Employment Service Agency", "Manpower Services Commission" and "Training Services Agency" repealed (E.W.S.) by Employment Protection Act 1975 (c. 71), s. 125, **Sch. 18**
- F166** Words in Sch. 1 para. 3 Table Pt. II inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 2 para. 1**; S.I. 2009/3345, art. 2, Sch. para. 1
- F167** Sch. 1 para. 3 Table Pt. II: entry inserted (1.9.2009) by The Public Records (Designation of Bodies) Order 2009 (S.I. 2009/1744), **art. 2**
- F168** Sch. 1 para. 3 Table Pt. II: entries repealed (1.12.2006) by National Lottery Act 2006 (c. 23), ss. 21, 22, **Sch. 3**; S.I. 2006/3201, **art. 2(e)**
- F169** Sch. 1 para. 3 Table Pt. II: entry relating to "Monopolies Commission" repealed (1.4.1999) by virtue of S.I. 1999/506, **art. 11**
- F170** Words substituted by virtue of Fair Trading Act 1973 (c. 41), s. 4(1)
- F171** Table Pt. II: entry inserted by National Audit Act 1983 (c. 44, SIF 99:1), s. 3(1), **Sch. 2 para. 4**
- F172** Sch. 1 para. 3 Table Pt. II: the words "National Coal Board" repealed by Coal Industry Act 1987 (c. 3, SIF 86), s. 10(3), **Sch. 3 Pt. II**

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- F173** Words in Sch. 1 para. 3 Table Pt. II omitted (1.4.2014) by virtue of The Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014 (S.I. 2014/631), art. 1(3), **Sch. 1 para. 1** (with Sch. 1 para. 28, 2 paras. 13-15)
- F174** Sch. 1 para. 3 Table Pt. II: entry omitted (1.10.2013) by virtue of The Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013 (S.I. 2013/2329), art. 1(2), **Sch. para. 17(b)** (with art. 8, Sch. para. 43)
- F175** Words in Sch. 1 para. 3 Table Pt. II omitted (7.10.2013) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 16(a)**; S.I. 2013/1682, art. 3(v)
- F176** Sch. 1 para. 3 Table Pt. II: entry inserted (2.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 34(2)**; S.I. 2006/2541, **art. 2**
- F177** Sch. 1 para. 3 Table Pt. II: entry inserted (1.9.2009) by The Public Records (Designation of Bodies) Order 2009 (S.I. 2009/1744), **art. 2**
- F178** Sch. 1 para. 3 Table Pt. II: entry repealed (30.1.2001) by 2000 c. 37, ss. 73(4), 102, 103(2), Sch. 8 para. 2(a), **Sch. 16 Pt. III**; S.I. 2001/114, **art. 2(1)(d)**
- F179** Sch. 1 para. 3 Table Pt. II: entry inserted (27.7.2004) by Energy Act 2004 (c. 20), ss. 2, 198(2), **Sch. 1 para. 14**; S.I. 2004/1973, **art. 2, Sch.**
- F180** Sch. 1 para. 3 Table Pt. II: entries inserted (6.4.1997) by 1995 c. 26, s. 151, **Sch. 5 para. 1(b)**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F181** Words in Sch. 1 para. 3 Table Pt. II inserted (4.4.2011) by Budget Responsibility and National Audit Act 2011 (c. 4), s. 29, **Sch. 1 para. 22**; S.I. 2011/892, art. 3, Sch. 2
- F182** Sch. 1 para. 3 Table Pt. II: entry inserted (1.7.2002) by 2002 c. 11, s. 1, **Sch. para. 23**; S.I. 2002/1483, **art. 2**
- F183** Sch. 1 para. 3 Table Pt. II: entry repealed (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 3(2)(b), Sch. 26; S.I. 2003/766, **art. 2, Sch.** (with art. 3)
- F184** Words in Sch. 1 para. 3 Table Pt. II inserted (25.1.2010) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 10 para. 2(b)**; S.I. 2010/23, art. 2(h)(i)
- F185** Sch. 1 para. 3 Table Pt. II: entry inserted (1.1.2009) by Legal Services Act 2007 (c. 29), ss. 114, 211, **Sch. 15 para. 33** (with ss. 29, 192, 193); S.I. 2008/3149, **art. 2(e)(ii)**
- F186** Words in Sch. 1 para. 3 Table Pt. II inserted (1.4.2014) by The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469), art. 1(2), **Sch. 2 para. 2** (with Sch. 4)
- F187** Sch. 1 para. 3 Table Pt. II: entry repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 16 para. 55, **Sch. 25 Pt. 26**; S.I. 2012/628, art. 6(i)(j) (with arts. 9, 11, 14, 15, 17)
- F188** Words in Sch. 1 para. 3 Table Pt. II omitted (2.12.2014) by virtue of The Olympic Delivery Authority (Dissolution) Order 2014 (S.I. 2014/3184), art. 1(2), **Sch. para. 8**
- F189** Sch. 1 para. 3 Table Pt. II: entry inserted (8.7.2005) by Horserace Betting and Olympic Lottery Act 2004 (c. 25), ss. 29, 40, **Sch. 5 para. 16**; S.I. 2005/1831, **art. 2**
- F190** Sch. 1 para. 3 Table Pt. II: entry inserted (6.4.2005) by Pensions Act 2004 (c. 35), ss. 319, 322, **Sch. 12 para. 1**; S.I. 2005/275, **art. 2(7), Sch. Pt. 7** (subject to art. 2(12))
- F191** Words in Sch. 1 para. 3 Table Pt. II inserted (25.2.2010) by The Passengers' Council (Non-Railway Functions) Order 2010 (S.I. 2010/439), art. 1, **Sch. para. 1(2)**
- F192** Sch. 1 para. 3 Table Pt. II: entries inserted (6.4.1997) by 1995 c. 26, s. 151, **Sch. 5 para. 1(b)**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F193** Sch. 1 para. 3 Table Pt. II: entry inserted (2.10.1995) by 1995 c. 26, s. 173, **Sch. 6 para. 1**; S.I. 1995/2548, **art. 2**
- F194** Sch. 1 para. 3 Table Pt. II: entry inserted (6.4.2005) by Pensions Act 2004 (c. 35), ss. 319, 322, **Sch. 12 para. 1**; S.I. 2005/275, **art. 2(7), Sch. Pt. 7** (subject to art. 2(12))
- F195** Words in Sch. 1 para. 3 Table Pt. II repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 3
- F196** Sch. 1 para. 3 Table Pt. II: entry inserted (1.9.1997) by 1997 c. 50, s. 134(1), **Sch. 9 para. 3**; S.I. 1997/1930, **art. 3(2)(x)**
- F197** Words in Sch. 1 para. 3 Table Pt. II omitted (1.10.2011) by virtue of Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 82(2)**; S.I. 2011/2329, art. 3

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- F198** Words in Sch. 1 para. 3 Table Pt. II inserted (1.12.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 69(2)**; S.I. 2012/2657, art. 2(3)
- F199** Words in Sch. 1 para. 3 Table Pt. II omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 8 para. 1**; S.I. 2012/924, art. 2
- F200** Sch. 1 para. 3 Table Pt. II: entry repealed (1.4.1999) by 1998 c. 38, s. 152, **Sch. 18 Pt. II** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/782, **art. 2**
- F201** Sch. 1 para. 3 Table Pt. II: entries inserted (1.2.2001) by 2000 c. 38, s. 229, **Sch. 23 para. 10**; S.I. 2001/57, **art. 3 Sch. 3 Pt. I** (with **Sch. 3 Pt. II**)
- F202** Words in Sch. 1 para. 3 Table Pt. II omitted (25.2.2010) by virtue of The Passengers' Council (Non-Railway Functions) Order 2010 (S.I. 2010/439), art. 1, **Sch. para. 1(3)**
- F203** Words in Sch. 1 para. 3 Table Pt. II inserted (23.5.2014) by Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (c. 4), s. 45(1)(a), **Sch. 2 para. 11**; S.I. 2014/1236, art. 2(1)(k)
- F204** Table Pt. II: entries inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 40(1), **Sch. 5 para. 3**
- F205** Sch. 1 para. 3 Table Pt. II: entry inserted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19 para. 34**; S.I. 1993/1975, art. 9, **Sch. 1**
- F206** Words in Sch. 1 para. 3 Table Pt. II repealed (1.4.1999) by 1998 c. 31, s. 140(3), **Sch. 31**; S.I. 1999/1016, art. 2(1), **Sch. 1**
- F207** Table Pt. II: entries inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 40(1), **Sch. 5 para. 3**
- F208** Sch. 1 para. 3 Table Pt. II: entry inserted (1.4.2003) by 2001 c. 12, s. 1, **Sch. 1 para. 18**; S.I. 2002/3125, **art. 3(d)**
- F209** Words in Sch. 1 para. 3 Table Pt. II omitted (7.10.2013) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 16(b)**; S.I. 2013/1682, art. 3(v)
- F210** Sch. 1 para. 3 Table Pt. II: entries repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 174, 178, Sch. 4 para. 6(b), {Sch. 17}; S.I. 2006/378, **art. 4(1)**, Sch. paras. 10, 13(d) (subject to art. 4(2)-(7))
- F211** Sch. 1 para. 3 Table Pt. II: entries repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 174, 178, Sch. 4 para. 6(b), {Sch. 17}; S.I. 2006/378, **art. 4(1)**, Sch. paras. 10, 13(d) (subject to art. 4(2)-(7))
- F212** Sch. 1 para. 3 Table Pt. II: entry inserted (1.4.2003) by The Public Records (Designation of Bodies) Order 2003 (S.I. 2003/438), **art. 2**
- F213** Words in Sch. 1 para. 3 Table Pt. II inserted (8.5.2012) by Welfare Reform Act 2012 (c. 5), s. 150(2) (j), **Sch. 13 para. 14(b)**
- F214** Words in Sch. 1 para. 3 Table Pt. II inserted (5.3.2015) by Infrastructure Act 2015 (c. 7), s. 57(1), **Sch. 1 para. 68**; S.I. 2015/481, reg. 2(a)
- F215** Sch. 1 para. 3 Table Pt. II: entry repealed (1.9.2005) by Education Act 2005 (c. 18), ss. 123, 125(3)(b), **Sch. 19 Pt. 3**
- F216** Sch. 1 para. 3 Table Pt. II: entry inserted (1.2.2008) by The Public Records (Technology Strategy Board) Order 2007 (S.I. 2007/3466), **art. 2(2)**
- F217** Sch. 1 para. 3 Table Pt. II: entry inserted (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:2), s. 52, **Sch. 5 para. 10** (with s. 79(1)); S.I. 1991/2054, art. 3, **Sch.**
- F218** Words in Sch. 1 para. 3 Table Pt. II omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 5 para. 1**; S.I. 2012/924, art. 2
- F219** Sch. 1 para. 3 Table Pt. II: entries relating to "Employment Service Agency", "Manpower Services Commission" and "Training Services Agency" repealed (E.W.S.) by Employment Protection Act 1975 (c. 71), s. 125, **Sch. 18**
- F220** Words in Sch. 1 para. 3 Table Pt. II inserted (5.7.2010) by Pensions Act 2008 (c. 30), s. 149(1), **Sch. 1 para. 23**; S.I. 2010/10, art. 2(a)
- F221** Sch. 1 para. 3 Table Pt. II: entry inserted (1.4.2004) by Local Government Act 2003 (c. 26), ss. 105, 128, **Sch. 4 para. 21**; S.I. 2003/2938, **art. 6(a)** (subject to art. 8, Sch.)
- F222** Table Pt. II: entries inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 40(1), **Sch. 5 para. 3**
- F223** Words in Sch. 1 para. 3 Table Pt. II omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 16 para. 1**; S.I. 2012/924, art. 2

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**F224** Sch. 1 para. 3 Table Pt. II: words in entry repealed (1.4.1999) by 1998 c. 38, s. 152, **Sch. 18 Pt. II** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/782, **art. 2**

#### Modifications etc. (not altering text)

**C19** Sch. 1 Pt. I: reference to Ministry of Agriculture, Fisheries and Food extended by S.I. 1978/272, **art. 11(6)**

**C20** Sch. 1 para. 3 Table Pt. II: Public Records Act 1958 shall, as from the appointed day, have effect as if British Telecommunications were included amongst the bodies and establishments set out in Part II of the Table at the end of paragraph 3 of Schedule 1 to that Act by virtue of **British Telecommunications Act 1981** (c. 38, SIF 96), **ss. 1(2), 56(1)** (which amending provisions were repealed by **Telecommunications Act 1984** (c. 12, SIF 96), s. 109, **Sch. 7 Pt. II** (with saving relating to the operation of s. 56 of the 1981 Act in **Sch. 5 para. 44**))

**C21** Sch. 1 para. 3 Table Pt. II modified (1.4.2012) by **Budget Responsibility and National Audit Act 2011** (c. 4), s. 29, **Sch. 5 para. 4**; S.I. 2011/2576, **art. 5**

**C22** Sch. 1 para. 3 Table Pt. II: entries relating to Curriculum and Assessment Authority for Wales, Funding Agency for Schools, School Curriculum and Assessment Authority and Schools Funding Council for Wales continued (1.11.1996) by virtue of 1996 c. 56, **ss. 582(1), 583(2), Sch. 37 Pt. I para. 2**

#### Marginal Citations

**M4** 1973 c. 32.

[<sup>F225</sup>3A(1) Her Majesty may by Order in Council amend the Table at the end of paragraph 3 of this Schedule by adding to either Part of the Table an entry relating to any body or establishment—

- (a) which, at the time when the Order is made, is specified in Schedule 2 to the Parliamentary Commissioner Act 1967 (departments, etc. subject to investigation), or
- (b) in respect of which an entry could, at that time, be added to Schedule 2 to that Act by an Order in Council under section 4 of that Act (which confers power to amend that Schedule).

(2) An Order in Council under this paragraph may relate to a specified body or establishment or to bodies or establishments falling within a specified description.

(3) An Order in Council under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Annotations:

#### Amendments (Textual)

**F225** Sch. 1 para. 3A inserted (30.11.2000) by 2000 c. 36, **ss. 67, 87(1)(j), Sch. 5 Pt. I para. 4** (with ss. 56, 78)

#### *Records of courts and tribunals*

4 (1) Subject to the provisions of this paragraph, records of the following descriptions shall be public records for the purposes of this Act:—

[<sup>F226</sup>(za) records of the Supreme Court;]

- (a) records of, or held in any department of, the Supreme Court (including any court held under a commission of assize);

[<sup>F227</sup>(aa) records of the family court;]

- (b) records of county courts and of any other superior or inferior court of record established since the passing of the <sup>M5</sup>County Courts Act 1846;

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- <sup>F228</sup>(c) . . . . .
- (d) records of courts of quarter sessions;
- (e) records of magistrates' courts;
- (f) records of coroners' courts;
- [<sup>F229</sup>(fa) records of the Court Martial, the Summary Appeal Court or the Service Civilian Court;]
- (g) records of courts-martial held whether within or outside the United Kingdom by any of Her Majesty's forces raised in the United Kingdom;
- (h) records of naval courts held whether within or outside the United Kingdom under the enactments relating to merchant shipping;
- (i) records of any court exercising jurisdiction held by Her Majesty within a country outside Her dominions;
- (j) records of any tribunal (by whatever name called)—
- (i) which has jurisdiction connected with any functions of a department of Her Majesty's Government in the United Kingdom; or
- (ii) which has jurisdiction in proceedings to which such a government department is a party or to hear appeals from decisions of such a government department;
- <sup>F230</sup>(ja) . . . . .
- (k) records of <sup>F231</sup>. . . any Rent Tribunal or Local Valuation Court;
- (l) records of the Industrial Court, of the Industrial Disputes Tribunal, and of the National Arbitration Tribunal (which was replaced by the Industrial Disputes Tribunal);
- (m) records of umpires and deputy-umpires appointed under the <sup>M6</sup>National Service Act 1948, or the <sup>M7</sup>Reinstatement in Civil Employment Act 1944;
- (n) records of ecclesiastical courts when exercising the testamentary and matrimonial jurisdiction removed from them by the <sup>M8</sup>Court of Probate Act 1857, and the <sup>M9</sup>Matrimonial Causes Act 1857, respectively;
- <sup>F232</sup>(nn) . . . . .
- (o) records of such other courts or tribunals (by whatever name called) as the Lord Chancellor may by order contained in a statutory instrument specify.
- [<sup>F233</sup>(1A) Records of, or held in any department of, the Supreme Court within sub-paragraph (1) (a) of this paragraph include the records of the Chancery Court of the county palatine of Lancaster and the Chancery Court of the county palatine of Durham (which were abolished by the Courts Act 1971).
- (1B) Records of county courts within sub-paragraph (1)(b) of this paragraph include the records of the following courts (which were abolished by the Courts Act 1971)—
- (a) the Tolzey and Pie Poudre Courts of the City and County of Bristol;
- (b) the Liverpool Court of Passage;
- (c) the Norwich Guildhall Court; and
- (d) the Court of Record for the Hundred of Salford.]
- (2) This paragraph shall not apply to any court or tribunal whose jurisdiction extends only to Scotland or Northern Ireland.

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(3) In this paragraph “records” includes records of any proceedings in the court or tribunal in question and includes rolls, writs, books, decrees, bills, warrants and accounts of, or in the custody of, the court or tribunal in question.

**Annotations:**

**Amendments (Textual)**

- F226** Sch. 1 para. 4(1)(za) inserted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), **ss. 56(3)**, 148; S.I. 2009/1604, **art. 2**
- F227** Sch. 1 para. 4(1)(aa) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 10 para. 14**; S.I. 2014/954, **art. 2(d)** (with **art. 3** and with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F228** Sch. 1 para. 4(1)(c) repealed by [Courts Act 1971 \(c. 23\)](#), **Sch. 11 Pt. II**
- F229** Sch. 1 para. 4(1)(fa) inserted (28.3.2009 for certain purposes and 31.10.2009 otherwise) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), **Sch. 16 para. 43**; S.I. 2009/812, **art. 3**; S.I. 2009/1167, **art. 4**
- F230** Sch. 1 para. 4(1)(ja) omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), **art. 1(1)**, **Sch. 2 para. 1** (with Sch. 5)
- F231** Words in Sch. 1 para. 4(1)(k) omitted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), **art. 5(1)(2)**, **Sch. 1 para. 30(b)** (with **art. 5(6)**, Sch. 5)
- F232** Sch. 1 para. 4(1)(nn) omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), **art. 1(1)**, **Sch. 2 para. 1** (with Sch. 5)
- F233** Sch. 1 para. 4(1A)(1B) inserted (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), s. 2(1), **Sch. 2 para. 6**

**Marginal Citations**

- M5** 1846 c. 95.  
**M6** 1948 c. 64.  
**M7** 1944 c. 15.  
**M8** 1857 c. 77.  
**M9** 1857 c. 85.

*Records of the Chancery of England*

5 The records of the Chancery of England [<sup>F234</sup>, other than any which are Welsh public records (as defined in [<sup>F235</sup>the Government of Wales Act 2006]),] shall be public records for the purposes of this Act.

**Annotations:**

**Amendments (Textual)**

- F234** Words in Sch. 1 para. 5 inserted (1.4.1999) by [1998 c. 38](#), s. 125, **Sch. 12 para. 3(4)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F235** Words in Sch. 1 para. 5 substituted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160(1), {Sch. 10 para. 7(b)}, the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

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*Records in Public Record Office*

- 6 Without prejudice to the foregoing provisions of this Schedule, public records for the purposes of this Act shall include—
- (a) all records within the meaning of the <sup>M10</sup>Public Record Office Act 1838, or to which that Act was applied, which at the commencement of this Act are in the custody of the Master of the Rolls in pursuance of that Act, and
  - (b) all records (within the meaning of the said Act or to which that Act was applied) which at the commencement of this Act are in the Public Record Office and, in pursuance of the said Act, under the charge and superintendence of the Master of the Rolls, and
  - (c) all records forming part of the same series as any series of documents falling under sub-paragraph (a) or sub-paragraph (b) of this paragraph [<sup>F236</sup>other than any which are Welsh public records (as defined in [<sup>F237</sup>the Government of Wales Act 2006])].

**Annotations:**

**Amendments (Textual)**

**F236** Words in Sch. 1 para. 6 inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 3(5)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**

**F237** Words in Sch. 1 para. 6 substituted by **Government of Wales Act 2006 (c. 32)**, s. 160(1), {Sch. 10 para. 7(c)}, the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

**Marginal Citations**

**M10** 1838 c. 94.

*Power to add further categories of records and to determine cases of doubt*

- 7 (1) Without prejudice to the Lord Chancellor's power of making orders under paragraph 4 of this Schedule, Her Majesty may by Order in Council direct that any description of records not falling within the foregoing provisions of this Schedule [<sup>F238</sup>and not being Welsh public records (as defined in [<sup>F239</sup>the Government of Wales Act 2006])] shall be treated as public records for the purposes of this Act but no recommendation shall be made to Her Majesty in Council to make an Order under this sub-paragraph unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.
- (2) A question whether any records or description of records are public records for the purposes of this Act shall be referred to and determined by the [<sup>F240</sup>Secretary of State] and the [<sup>F240</sup>Secretary of State] shall include his decisions on such questions in his annual report to Parliament and shall from time to time compile and publish lists of the departments, bodies, establishments, courts and tribunals comprised in paragraphs 2, 3 and 4 of this Schedule and lists describing more particularly the categories of records which are, or are not, public records as defined in this Schedule.

*Changes to legislation: Public Records Act 1958 is up to date with all changes known to be in force on or before 01 September 2017. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Annotations:**

**Amendments (Textual)**

**F238** Words in Sch. 1 para. 7(1) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 3(6)** (with ss. 139(2), 141(1)); S.I. 1999/782, **art. 2**

**F239** Words in Sch. 1 para. 7(1) substituted by **Government of Wales Act 2006 (c. 32)**, s. 160(1), {Sch. 10 para. 7(d)}, the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

**F240** Words in Sch. 1 para. 7(2) substituted (9.12.2015) by **The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897)**, art. 1(2), **Sch. para. 1(3)(j)**

**Modifications etc. (not altering text)**

**C23** Sch. 1 para. 7(2): transfer of functions (9.12.2015) by **The Transfer of Functions (Information and Public Records) Order 2015 (S.I. 2015/1897)**, arts. 1(2), **6(1)(a)**, (2)(g) (with art. 7)

*Interpretation*

- 8 It is hereby declared that any description of government department, court, tribunal or other body or establishment in this Schedule by reference to which a class of public records is framed extends to a government department, court, tribunal or other body or establishment, as the case may be, which has ceased to exist, whether before or after the passing of this Act.

<sup>F241</sup>SECOND SCHEDULE

**Annotations:**

**Amendments (Textual)**

**F241** Sch. 2 repealed (1.1.2005) by 2000 c. 36, ss. 67, 86, 87(3), Sch. 5 Pt. I para. 3, Sch. 8 Pt. III; S.I. 2004/3122, **art. 2**

<sup>F242</sup>THIRD SCHEDULE

**Annotations:**

**Amendments (Textual)**

**F242** Sch. 3 repealed by **Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A)**, s. 303(2), **Sch. 8**



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*Changes to legislation: Public Records Act 1958 is up to date with all changes known to be in force on or before 01 September 2017. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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F243 FOURTH SCHEDULE

**Annotations:**

**Amendments (Textual)**

**F243** [Sch. 4](#) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)

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**Changes to legislation:**

Public Records Act 1958 is up to date with all changes known to be in force on or before 01 September 2017. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

**Changes and effects yet to be applied to :**

- Sch. 1 para. 3 Table words inserted by 2017 c. 29 Sch. 1 para. 16
- Sch. 1 para. 3 Table words inserted by 2017 c. 29 Sch. 9 para. 18
- Sch. 1 para. 3 Table words omitted by 2017 c. 29 Sch. 11 para. 1(a)
- Sch. 1 para. 3 Table words omitted by 2017 c. 29 Sch. 11 para. 1(b)
- Sch. 1 para. 3 Table words omitted by 2017 c. 29 Sch. 12 para. 3

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 1 para. 3 Table Pt. 2 entries inserted by 1990 c. 41 Sch. 18 para. 1(1) (This amendment not applied to legislation.gov.uk. The insertion was repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 210, 211, Sch. 23 (with ss. 29, 192, 193); S.I. 2009/503, art. 2)
- Sch. 1 para. 3 Table Pt. 2 entry inserted by 1997 c. 48 Sch. 1 para. 1 (This amendment not applied to legislation.gov.uk. The insertion was repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 141(1), Sch. 10; S.I. 1998/2327, art. 2)
- Sch. 1 para. 3 Table Pt. 2 entry repealed by 1998 c. 38 Sch. 18 Pt. 2
- Sch. 1 para. 3 Table Pt. 2 words inserted by 2009 c. 13 Sch. 2 para. 11 (This amendment not applied to legislation.gov.uk. Sch. 2 substituted (19.4.2010) by 2010 c. 25, Sch. 3; S.I. 2010/1277, art. 2)
- Sch. 1 para. 3 Table Pt. 2 words inserted by 2017 c. 15 Sch. 2 para. 2
- Sch. 1 para. 3 Table Pt. 2 words repealed by 2000 c. 14 Sch. 6