

No. 161407-1

FILE CHECKED FOR NPV
SEE BACK COVER
DOSSIER VERITE POUR DSUU
VOIR ENDOS DE LA CHERISE

CONF.

Department of Justice

RECORDS

Title PROPOSED WAR CLAIMS INTERIM COMPENSATION REGULATIONS.

SUBJECT: _____

From STATE. MR. MUNDELL.

PERMANENT RETENTION
IN JUSTICE
CONSERVATION PERMANENTE
A LA JUSTICE

Agent _____

Cross Reference _____

MPV / DSUU ON FILE / SUR DOSSIER
YES/OUI () NO/NON (✓)

ABSTRACTOR / REDACTEUR: D.S.B.

DATE: 18 Oct. '85

No. 16140741

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BRING FORWARD

[illegible]

Redi Binder
No. Sp. 2779A



Recd. 13/2/52.
T.S.
CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL
COMMUNICATIONS
TO THE
CUSTODIAN'S OFFICE

WAR CLAIMS BRANCH

PLEASE REFER
TO

FILE NO.

PD:PF

Victoria Building,
7 O'Connor Street,
Ottawa 4, Ontario.

February 12, 1952.

Mr. D.W. Mundell,
Department of Justice,
Justice Building,
Wellington Street,
Ottawa.

Dear Mr. Mundell:

Re: Interim Compensation.

Attached please find a complete set of
letters, Order in Council, Rules and Forms, which are being
forwarded to certain claimants in connection with the above
Scheme.

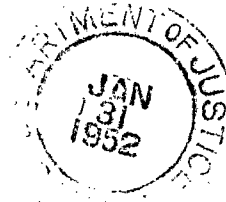
Yours very truly,

Alastair Napier
A. Napier,
Director,
War Claims Branch.

File away
W.C.B.

Encls-

MD



DEPARTMENT OF THE SECRETARY OF STATE
OF CANADA

Ottawa, January 29, 1952. /

161407-1


Dear Mr. Varcoe:

Re: War Claims Interim
Compensation Rules
(Your file: 161407-1)

I wish to thank you for your
letter of the 28th instant and enclosures.



C. Stein,
Under Secretary of State
and Deputy Custodian.



Mr. F. P. Varcoe, C.M.G., K.C.,
Deputy Minister,
Department of Justice,
Ottawa, Ontario.



4, January 28,

52.

BY HAND

161407-1

Dear Sir: Re: War Claims - Interim compensation.

As requested by you, I enclose five copies of a draft recommendation to Council to establish rules for payment of interim compensation for war claims. These rules were prepared in accordance with Chief Justice Ilse's interim report and further discussions with him, the Department of Finance and External Affairs. I assume that you will satisfy yourself that they meet your requirements as to substance.

Yours truly,

Encls.

F. P. Varcoe

Deputy Minister.

The Under-Secretary of State,
Ottawa 4, Ont.

Ottawa, January 28, 1952.

MEMORANDUM TO THE DEPUTY MINISTER:

161407-1

Re: War Claims - Payment of Interim
compensation.

Mr. Ilsley has made an interim report recommending the payment of interim compensation to certain claimants. The claims must be for loss resulting from injury or from the death of another person. The claimant must also be in necessitous circumstances.

Attached is a draft set of rules to govern the payment of interim compensation, prepared at the request of the Department of State in accordance with Mr. Ilsley's report, subject to certain changes which have been agreed to by him. The rules have been reviewed by State, Finance and External Affairs. They are in rather unusual form because they are not regulations conferring any rights but are merely an authority to the Treasury Board to authorize payments in certain circumstances. It is submitted that they are in proper form.

Attached is a draft letter to Mr. Stein.

D.W.M.

MD

Mr. Mundell



*Rec'd. Dec 14, 1951
3:23 PM
JMB*

URGENT

BY HAND

DEPARTMENT OF THE SECRETARY OF STATE
OF CANADA

Ottawa, December 14, 1951.

Dear Mr. Varcoe:

Re: Proposed war claims interim
compensation regulations

Further to my letter of the 7th instant and to my telephone conversations with you this morning, I beg to confirm that the Prime Minister to-day expressed to me his desire that the regulations be established and the interim compensation scheme set in motion this month, if at all possible. When I spoke to him again after my second conversation with you, I stressed the difficulties and complications of the whole subject of war claims and of interim compensation therefor in particular, and I mentioned the fact that as a result of discussions between Mr. Mundell, of your Department, and the Advisory Commissioner on War Claims the Commissioner had yesterday come to the conclusion that the definition of "Canadian" he had recommended in his report on interim compensation should be changed.

On the point about the definition of "Canadian" the Prime Minister expressed the view that the interim compensation scheme should not be held up by any such difficulty and by the fear that the qualifying provisions of this scheme might be different from those of the final scheme. He no doubt had in mind the fact that the interim compensation regulations will require the interim compensation to be refunded to the Government where the final adjudication on the claim is to the effect that the claimant is not entitled to compensation at all (please see paragraph B.4.(k) of the Commissioner's report). However, I understand from Mr. Mundell that the proposed new definition in question is now pretty well settled and that this matter will not entail any substantial delay henceforth in the drafting of the regulations.

Another instance which I mentioned to the Prime Minister of a change that may have to be recommended to the Governor in Council from the interim report as approved in principle by Cabinet is the suggested exclusion of insurance, or at least of life insurance, from the proposed provision disqualifying, for interim compensation

Mr. F. P. Varcoe, K.C., C.M.G.,
Deputy Minister,
Department of Justice,
Ottawa, Ontario.

...

purposes, any claimant who has received or later receives fair and reasonable compensation from any other source. In this connection I would refer you to paragraph 6 of my memorandum of the 6th instant which was enclosed with my letter to you of the 7th instant.

The Prime Minister agreed that it was not necessary (or advisable, in view of the urgency) to have an amended report from the Advisory Commissioner submitted to Cabinet in connection with any such recommended amendment or change before the draft order in council and regulations are submitted to Council, and that it would be quite in order to include any change in the draft regulations. It occurs to me, however, that it would be well to place before Council at the same time as the draft regulations any additional report that the Advisory Commissioner may care to submit in connection with any provision in such draft that differs in principle from what he recommended in his interim report already approved by Cabinet, or at least to mention somehow to Council that the Advisory Commissioner has been consulted and agrees with the recommended change, if such is the case.

I may add that I assured the Prime Minister that your Department was actively engaged in the drafting of the regulations, in consultation with the Commissioner, and that everything possible was being done to expedite the matter.

I am sending copies hereof to the Prime Minister and the Advisory Commissioner on War Claims.

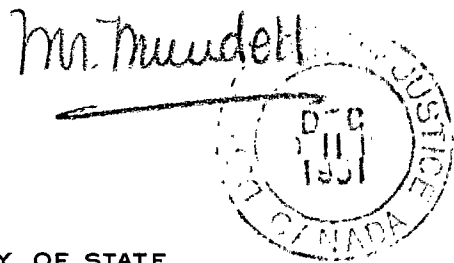
Yours very truly,

A handwritten signature in dark ink, appearing to read 'C. Stein', with a large, flowing initial 'C'.

C. Stein,
Under Secretary of State
and Deputy Custodian.



DEPARTMENT OF THE SECRETARY OF STATE
OF CANADA



Ottawa, December 7, 1951.

Dear Mr. Varcoe:

Re: Proposed war claims interim
compensation regulations

Under date of November 22, 1951, Cabinet approved in principle the report submitted by the Advisory Commissioner on War Claims, the Right Honourable J. L. Ilsley, with respect to a proposed war claims interim compensation scheme. Would you please supply me at your earliest convenience with a draft of regulations based on the said report for submission to the Governor in Council. For this purpose I enclose herewith two copies of each of the following documents:

1. Extract from Record of Cabinet Decisions No. 129, meeting of November 22, 1951;
2. Report of the Advisory Commissioner on War Claims dated November 2, 1951;
3. My memorandum of December 6, 1951, on the proposed regulations, making a number of suggestions in connection therewith.

I may say Mr. Justice Ilsley has seen my said memorandum and agrees with the substance thereof.

Mr. F. P. Varcoe, K.C., C.M.G.,
Deputy Minister,
Department of Justice,
Ottawa, Ontario.

There is a question as to what, if any, authority should be invoked in and for the Order in Council establishing the proposed regulations. However, you will no doubt consider the point and take care of it in your draft, in which please include a recommendation to Council for establishing the regulations.

As you know, Mr. D. H. W. Henry, of your Department and the Department of Finance, is very familiar with this subject and has been giving assistance to the Advisory Commissioner.

As there have been, recently again, representations in Parliament for action by the Government in this respect and Cabinet are very anxious to have this interim compensation scheme established, I shall appreciate anything you can do to expedite the drafting of the regulations. If at all possible, I should like to have them submitted to the Governor in Council by the end of this month.

Yours very truly,

A handwritten signature in dark ink, appearing to read 'C. Stein', with a large, stylized initial 'C'.

C. Stein,
Under Secretary of State
and Deputy Custodian.

Enclosures.

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA.

ADVISORY COMMISSION ON WAR CLAIMS
O T T A W A

November 2, 1951.

Dear Sir:

I have your letter of October 17th enclosing extract from the Record of Cabinet decisions relating to interim compensation for war claims and asking me for my recommendations in this connection.

A. My inquiry under P.C. 3951 has reached such a stage that I have decided to make the following recommendations, which will appear in my final report:

1. That there be established in the Consolidated Revenue Fund an account to be known as the War Claims Fund, to which shall be transferred, after liquidation where necessary,
 - (a) all reparations, including any income earned thereon, less administration charges and expenses, made available to Canada under the Final Act of the Paris Conference on Reparation signed December 21, 1945 or any treaty of peace, or similar agreement, concluded with the Western German or a German government; and
 - (b) all assets, including any income earned thereon, less administration charges and expenses, that are to be made available to Canada under Article 14 of the Treaty of Peace with Japan.
2. That all monies in the War Claims Fund be pooled for payment of war claims subject to such priorities in respect of claims as may be recommended in my final report, without any attempt to relate the claims for losses in or caused by a particular country to the funds realized from the assets of the government of that country or its nationals.
3. That claims falling within the classes of claims that I will set out below as classes of claims eligible for interim compensation will be among the classes of claims eligible for payment out of the War Claims Fund.

B. On the assumption that the Government is prepared to institute a programme for the payment of interim compensation to some of those who have submitted war claims, a practical plan would be as follows:

1. Such payments should be made out of the War Claims Fund. If legislation is necessary to make the funds available and it is desired that interim compensation should be paid before such legislation is passed, it may be that the Treasury Board would be prepared to authorize some payments out of the Vote for Miscellaneous Minor and Unforeseen Expenses (Department of Finance), such payments to be charged in due course to the War Claims Fund.
2. The principles governing the payments should be set out in Regulations of the Governor in Council which should provide that the amount, if any, of interim compensation

to be paid to a particular claimant should be determined by the Treasury Board. Provision should be made that every claim for interim compensation be placed before the Treasury Board.

3. The War Claims Branch of the Department of the Secretary of State should notify those who have submitted claims for compensation for pecuniary loss resulting from personal injury to the claimant or from the death of some other person, of the provisions of the interim compensation scheme, and upon receiving from the claimant an application for interim compensation together with the documentary evidence on which it is based should place the facts before the Treasury Board with the application and the documentary evidence attached. Treasury Board should then decide whether interim compensation should be paid to the claimant.
4. In order to guide the Treasury Board in determining which persons are eligible for interim compensation and the amount, if any, to be paid to a claimant, the Regulations should establish the following principles:

- (a) The claimant must prove urgent financial need and that he is undergoing serious financial hardship at the time he makes his claim for interim compensation.
- (b) The claim must be for pecuniary loss to the claimant resulting from personal injury to the claimant or his wife or child or from the death of another person.
- (c) The personal injury or death as the case may be must have been caused by
 - (i) the carrying on of actual warfare by ~~belligerent armed forces~~, enemy, Allied or Canadian, outside of Canada and Newfoundland, or
 - (ii) maltreatment in internment or detention by the civilian or military authorities of an enemy government.

Any such cause is herein referred to as "the act complained of"

- (d) The act complained of, if it occurred in the course of the European War, must have occurred between September 1, 1939 and May 8, 1945, both dates inclusive, and if it occurred in the course of the Pacific War, between December 7, 1941 and September 2, 1945, both dates inclusive, and must have occurred outside of Canada and Newfoundland.
- (e) Where the claim is for loss resulting from death, the claimant must have been a Canadian at the time of the act complained of as well as at the time of the death, and must be a Canadian citizen at the time of the claim. Where the claim is for loss resulting from personal injuries, the claimant must have been a Canadian at the time of the act complained of and must be a Canadian citizen at the time of the claim. In

this context, a person is deemed to have been a Canadian at the time of death or the act complained of, as the case may be, who at that time,

Canadian

- (i) would have been a Canadian citizen as provided in Section 4 or Section 9 of the Canadian Citizenship Act if that Act had come into force immediately before the act complained of or the death as the case may be; or
- (ii) was a Canadian National within the meaning of the Canadian Nationals Act; or
- (iii) was a Canadian citizen under the Canadian Citizenship Act;

and in applying these statutes for this purpose any reference to Canada therein, or in related statutes, should be regarded as including Newfoundland.

- (f) If the claim is for pecuniary loss resulting from the death of another, the claimant must be the husband, wife, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, (grandson, granddaughter), step-son or step-daughter, person of whom the deceased was the adopted child, person who stood in loco parentis to the deceased, adopted child of the deceased or person to whom the deceased stood in loco parentis. The amount of the claim must be limited to the pecuniary loss suffered by the claimant as a result of the death.

- (g) *of another*
Where the claim is for loss resulting from death, the deceased must have been a civilian at the time of the act complained of and at the time of the death, and where the claim is for loss resulting from personal injuries the person injured must have been a civilian at the time of the act complained of. In this context "civilian" means a person who, at the time of the death or the act complained of, as the case may be, was not a member of any armed forces, police forces, organization, group or other class to or in respect of all or some members of which benefits have been provided by way of pension, gratuity or other compensation for injury or death, arising out of service in World War II, under

The Pension Act
The Women's Royal Naval Services and the South African Military Nursing Service (Benefits) Act
The Civilian War Pensions and Allowances Act
The Special Operators War Service Benefits Act
The Supervisors War Service Benefits Act

or any similar statute or regulation of Canada or Newfoundland notwithstanding that such pension, gratuity or compensation may not be payable to or in respect of that person although he is a member of the class.

- (h) The amount of the claim to be paid by way of interim compensation shall not exceed one-half the amount that Treasury Board estimates to be the pecuniary loss or \$2000 whichever is the lesser.

- (i) If the claim is for pecuniary loss resulting from personal injury to the claimant, the pecuniary loss must be established to the satisfaction of the Treasury Board and evidence that the earning capacity of the claimant has been permanently impaired as a result of the act complained of should be admitted as proof of pecuniary loss, but the earning capacity of a claimant during any period of his internment or detention shall be deemed not to have been impaired.
- (j) No interim compensation should be paid to a claimant if, in the opinion of Treasury Board, the claimant is likely to receive or has received compensation from another source in respect of the death or injury for which the claim is made.
- (k) Any interim compensation should be paid on the condition that all or part thereof will be repaid to His Majesty if the claimant is subsequently found by the Commissioner who adjudicates the claim not to be entitled to compensation at all, or to be entitled to a sum less than the amount of interim compensation that has been paid to him, or if he receives from any other source, compensation in respect of the death or injury for which interim compensation has been paid.
- (l) No interim compensation shall be paid for pain and suffering, loss of enjoyment of life, or loss or diminution of expectation of life.
- (m) Where a claim is made by or on behalf of a person not of full legal capacity, payment may be made to such person as the Treasury Board may determine.

C. I should point out that the Government in authorizing the payment of interim compensation is, theoretically at least, running the following risks.

1. One risk is that the interim compensation paid will be in an amount greater than the total amount of compensation to which the commissioner who adjudicates the claim considers the claimant entitled. This risk arises only by reason of the fact that in most cases there is no exact measure of pecuniary loss resulting from personal injury or death and the commissioner may take a different view from that of Treasury Board of the principles applicable to the measure of pecuniary loss. With the 50% limitation suggested above, I consider the risk very small indeed.

2. Another risk is that an interim compensation payment, even though less than the amount of compensation to which the commissioner who adjudicates the claim considers the claimant entitled, will prove to be more than that to which the claimant is eventually entitled because of the insufficiency of the fund to meet all claims. If the fund were to be distributed pro rata among all claimants this would be a very real risk. As, however, I intend to recommend in my final report that either claims for losses resulting from personal injury or death, (there are presently some 25 death and 100 personal injury claims) or all claimants shall have first priority up to \$2,000 or more the risk is not great. Approximately 2,000 individual persons, who were civilians at time

of loss, have claimed, and a maltreatment claim for a dollar a day for every day of imprisonment has been put forward on behalf of approximately 1,750 Canadians, or their survivors, who were prisoners of war in Japanese hands. If acceded to by the Government the cost of this latter claim would be about \$2 million. No similar claim has been put forward on behalf of Canadians who were prisoners of war in German or Italian hands, no doubt because, except possibly in isolated instances, maltreatment did not take place. If the maltreatment claim of \$1.00 a day by those who were prisoners of war in Japanese hands is acceded to it will probably be necessary to pay \$1.00 a day to civilians who were interned or detained by the Japanese thereby increasing the number of civilian claimants by possibly 300. Of the 2,000 individual claimants who were civilians at time of loss, several hundreds were not Canadians at time of loss and some are not Canadians today. Even if 5,000 individual claimants, who were civilians at time of loss, are eventually admitted for compensation (a very remote contingency) and even if each of these were to receive \$2,000 as a first priority, the total cost would be \$10 million, which, with the \$2 million above referred to, would still be less than the probable amount of the fund. However, as many claims will be for far less than \$2,000 the actual demand of first priority claims on the fund (if up to \$2,000 only) would on a basis of 5000 civilians claimants and \$2,000,000 to the ex-prisoners of war be substantially less than \$12 million. Of course if, say, 10,000 claims are admitted for payment it may turn out that the interim compensation awarded by Treasury Board to some claimant under the scheme outlined above will prove to be more than the compensation to which the claimant eventually proves to be entitled. It is my duty to point out this risk but I consider it small.

3. A third risk is that my final report, containing as it will the recommendations set out or referred to in paragraphs A 1 to A 3 above, will not be wholly accepted by the Government. If the Government pays interim compensation in accordance with the principles set out above it will, in effect, be committing itself to the acceptance of some very important recommendations among which the following may be listed by way of example;

- (a) A recommendation that the funds from German sources and from Japanese sources be pooled and made available for payment to the claimants irrespective of where their losses were suffered or which government inflicted them and without any discrimination between them based on the nationality of the agency that caused the loss or the country where the act complained of occurred.
- (b) A recommendation that losses are compensable even if resulting from the operations of Allied or Canadian forces.
- (c) A recommendation that claims for losses resulting from the torpedoing of the "Athenia" will be recognized even though this ship was sunk several days before Canada declared war.
- (d) A recommendation that the definition of Canadian be not more restrictive than that set out above. If the Govern-

ment eventually decides on a more restrictive definition of Canadian it may be that interim compensation will have been paid to some persons who do not qualify as Canadians under the definition finally adopted. The definition suggested is somewhat wide, for example, it includes a person who was born in Canada but has lived from infancy in, say, the United Kingdom. I gave consideration to defining a Canadian as a British subject domiciled in Canada, but this definition would probably shut out some claimants in the Far East who would seem to have good moral claims even though not domiciled in Canada at the time of loss. The definition would be a narrow one and I tried to devise a definition somewhere between the wide one and the narrow one, but found it impossible to work out any defensible compromise between the two extremes. I have therefore decided to recommend the wide definition, but must point out that by paying interim compensation on the basis of this definition the Government is virtually precluded from restricting the definition for the purpose of the final adjudication of war claims.

- (e) A recommendation that where a claim is for compensation for death or personal injuries the deceased or the person injured as the case may be must have been a civilian. If it is eventually decided by the Government to admit claims in respect of persons not civilians the number of claims admitted for payment might easily be 10,000 or even 50,000, in which event there might not be \$2,000 in the fund for anybody. The same considerations apply to other recommendations which I shall make having the effect of limiting the number of claimants. If these are eventually broadened by the government so as to let in more claimants the results above indicated are possible. I cannot set out these recommendations in a letter of this kind - indeed they are not completely formulated - but I can say that they will be such that in my opinion the total number of claimants with admissible claims will not exceed the figures given above.

The risk under discussion, which I have called the "third risk", is, of course, one which I cannot aporaise.

Yours respectfully,

"J. L. ILSLEY"

Commissioner.

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA.

ADVISORY COMMISSION ON WAR CLAIMS
O T T A W A

November 2, 1951.

Dear Sir:

I have your letter of October 17th enclosing extract from the Record of Cabinet decisions relating to interim compensation for war claims and asking me for my recommendations in this connection.

A. My inquiry under P.C. 3951 has reached such a stage that I have decided to make the following recommendations, which will appear in my final report:

1. That there be established in the Consolidated Revenue Fund an account to be known as the War Claims Fund, to which shall be transferred, after liquidation where necessary,
 - (a) all reparations, including any income earned thereon, less administration charges and expenses, made available to Canada under the Final Act of the Paris Conference on Reparation signed December 21, 1945 or any treaty of peace, or similar agreement, concluded with the Western German or a German government; and
 - (b) all assets, including any income earned thereon, less administration charges and expenses, that are to be made available to Canada under Article 14 of the Treaty of Peace with Japan.
2. That all monies in the War Claims Fund be pooled for payment of war claims subject to such priorities in respect of claims as may be recommended in my final report, without any attempt to relate the claims for losses in or caused by a particular country to the funds realized from the assets of the government of that country or its nationals.
3. That claims falling within the classes of claims that I will set out below as classes of claims eligible for interim compensation will be among the classes of claims eligible for payment out of the War Claims Fund.

B. On the assumption that the Government is prepared to institute a programme for the payment of interim compensation to some of those who have submitted war claims, a practical plan would be as follows:

1. Such payments should be made out of the War Claims Fund. If legislation is necessary to make the funds available and it is desired that interim compensation should be paid before such legislation is passed, it may be that the Treasury Board would be prepared to authorize some payments out of the Vote for Miscellaneous Minor and Unforeseen Expenses (Department of Finance), such payments to be charged in due course to the War Claims Fund.
2. The principles governing the payments should be set out in Regulations of the Governor in Council which should provide that the amount, if any, of interim compensation

to be paid to a particular claimant should be determined by the Treasury Board. Provision should be made that every claim for interim compensation be placed before the Treasury Board.

3. The War Claims Branch of the Department of the Secretary of State should notify those who have submitted claims for compensation for pecuniary loss resulting from personal injury to the claimant or from the death of some other person, of the provisions of the interim compensation scheme, and upon receiving from the claimant an application for interim compensation together with the documentary evidence on which it is based should place the facts before the Treasury Board with the application and the documentary evidence attached. Treasury Board should then decide whether interim compensation should be paid to the claimant.
4. In order to guide the Treasury Board in determining which persons are eligible for interim compensation and the amount, if any, to be paid to a claimant, the Regulations should establish the following principles:
 - (a) The claimant must prove urgent financial need and that he is undergoing serious financial hardship at the time he makes his claim for interim compensation.
 - (b) The claim must be for pecuniary loss to the claimant resulting from personal injury to the claimant or his wife or child or from the death of another person.
 - (c) The personal injury or death as the case may be must have been caused by
 - (i) the carrying on of actual warfare by belligerent armed forces, enemy, Allied or Canadian, outside of Canada and Newfoundland, or
 - (ii) maltreatment in internment or detention by the civilian or military authorities of an enemy government.

Any such cause is herein referred to as "the act complained of".

 - (d) The act complained of, if it occurred in the course of the European War, must have occurred between September 1, 1939 and May 8, 1945, both dates inclusive, and if it occurred in the course of the Pacific War, between December 7, 1941 and September 2, 1945, both dates inclusive, and must have occurred outside of Canada and Newfoundland.
 - (e) Where the claim is for loss resulting from death, the claimant must have been a Canadian at the time of the act complained of as well as at the time of the death, and must be a Canadian citizen at the time of the claim. Where the claim is for loss resulting from personal injuries, the claimant must have been a Canadian at the time of the act complained of and must be a Canadian citizen at the time of the claim. In

this context, a person is deemed to have been a Canadian at the time of death or the act complained of, as the case may be, who at that time,

- (i) would have been a Canadian citizen as provided in Section 4 or Section 9 of the Canadian Citizenship Act if that Act had come into force immediately before the act complained of or the death as the case may be; or
- (ii) was a Canadian National within the meaning of the Canadian Nationals Act; or
- (iii) was a Canadian citizen under the Canadian Citizenship Act;

and in applying these statutes for this purpose any reference to Canada therein, or in related statutes, should be regarded as including Newfoundland.

- (f) If the claim is for pecuniary loss resulting from the death of another, the claimant must be the husband, wife, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son or step-daughter, person of whom the deceased was the adopted child, person who stood in loco parentis to the deceased, adopted child of the deceased or person to whom the deceased stood in loco parentis. The amount of the claim must be limited to the pecuniary loss suffered by the claimant as a result of the death.
- (g) Where the claim is for loss resulting from death, the deceased must have been a civilian at the time of the act complained of and at the time of the death, and where the claim is for loss resulting from personal injuries the person injured must have been a civilian at the time of the act complained of. In this context "civilian" means a person who, at the time of the death or the act complained of, as the case may be, was not a member of any armed forces, police forces, organization, group or other class to or in respect of all or some members of which benefits have been provided by way of pension, gratuity or other compensation for injury or death, arising out of service in World War II, under

The Pension Act
The Women's Royal Naval Services and the
South African Military Nursing Service
(Benefits) Act
The Civilian War Pensions and Allowances Act
The Special Operators War Service Benefits Act
The Supervisors War Service Benefits Act

or any similar statute or regulation of Canada or Newfoundland notwithstanding that such pension, gratuity or compensation may not be payable to or in respect of that person although he is a member of the class.

- (h) The amount of the claim to be paid by way of interim compensation shall not exceed one-half the amount that Treasury Board estimates to be the pecuniary loss or \$2000 whichever is the lesser.

- (i) If the claim is for pecuniary loss resulting from personal injury to the claimant, the pecuniary loss must be established to the satisfaction of the Treasury Board and evidence that the earning capacity of the claimant has been permanently impaired as a result of the act complained of should be admitted as proof of pecuniary loss, but the earning capacity of a claimant during any period of his internment or detention shall be deemed not to have been impaired.
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- (k) Any interim compensation should be paid on the condition that all or part thereof will be repaid to His Majesty if the claimant is subsequently found by the Commissioner who adjudicates the claim not to be entitled to compensation at all, or to be entitled to a sum less than the amount of interim compensation that has been paid to him, or if he receives from any other source, compensation in respect of the death or injury for which interim compensation has been paid.
- (l) No interim compensation shall be paid for pain and suffering, loss of enjoyment of life, or loss or diminution of expectation of life.
- (m) Where a claim is made by or on behalf of a person not of full legal capacity, payment may be made to such person as the Treasury Board may determine.

C. I should point out that the Government in authorizing the payment of interim compensation is, theoretically at least, running the following risks.

1. One risk is that the interim compensation paid will be in an amount greater than the total amount of compensation to which the commissioner who adjudicates the claim considers the claimant entitled. This risk arises only by reason of the fact that in most cases there is no exact measure of pecuniary loss resulting from personal injury or death and the commissioner may take a different view from that of Treasury Board of the principles applicable to the measure of pecuniary loss. With the 50% limitation suggested above, I consider the risk very small indeed.

2. Another risk is that an interim compensation payment, even though less than the amount of compensation to which the commissioner who adjudicates the claim considers the claimant entitled, will prove to be more than that to which the claimant is eventually entitled because of the insufficiency of the fund to meet all claims. If the fund were to be distributed pro rata among all claimants this would be a very real risk. As, however, I intend to recommend in my final report that either claims for losses resulting from personal injury or death, (there are presently some 25 death and 100 personal injury claims) or all claimants shall have first priority up to \$2,000 or more the risk is not great. Approximately 2,000 individual persons, who were civilians at time

of loss, have claimed, and a maltreatment claim for a dollar a day for every day of imprisonment has been put forward on behalf of approximately 1,750 Canadians, or their survivors, who were prisoners of war in Japanese hands. If acceded to by the Government the cost of this latter claim would be about \$2 million. No similar claim has been put forward on behalf of Canadians who were prisoners of war in German or Italian hands, no doubt because, except possibly in isolated instances, maltreatment did not take place. If the maltreatment claim of \$1.00 a day by those who were prisoners of war in Japanese hands is acceded to it will probably be necessary to pay \$1.00 a day to civilians who were interned or detained by the Japanese thereby increasing the number of civilian claimants by possibly 300. Of the 2,000 individual claimants who were civilians at time of loss, several hundreds were not Canadians at time of loss and some are not Canadians today. Even if 5,000 individual claimants, who were civilians at time of loss, are eventually admitted for compensation (a very remote contingency) and even if each of these were to receive \$2,000 as a first priority, the total cost would be \$10 million, which, with the \$2 million above referred to, would still be less than the probable amount of the fund. However, as many claims will be for far less than \$2,000 the actual demand of first priority claims on the fund (if up to \$2,000 only) would on a basis of 5000 civilians claimants and \$2,000,000 to the ex-prisoners of war be substantially less than \$12 million. Of course if, say, 10,000 claims are admitted for payment it may turn out that the interim compensation awarded by Treasury Board to some claimant under the scheme outlined above will prove to be more than the compensation to which the claimant eventually proves to be entitled. It is my duty to point out this risk but I consider it small.

3. A third risk is that my final report, containing as it will the recommendations set out or referred to in paragraphs A 1 to A 3 above, will not be wholly accepted by the Government. If the Government pays interim compensation in accordance with the principles set out above it will, in effect, be committing itself to the acceptance of some very important recommendations among which the following may be listed by way of example;

- (a) A recommendation that the funds from German sources and from Japanese sources be pooled and made available for payment to the claimants irrespective of where their losses were suffered or which government inflicted them and without any discrimination between them based on the nationality of the agency that caused the loss or the country where the act complained of occurred.
- (b) A recommendation that losses are compensable even if resulting from the operations of Allied or Canadian forces.
- (c) A recommendation that claims for losses resulting from the torpedoing of the "Athenia" will be recognized even though this ship was sunk several days before Canada declared war.
- (d) A recommendation that the definition of Canadian be not more restrictive than that set out above. If the Govern-

ment eventually decides on a more restrictive definition of Canadian it may be that interim compensation will have been paid to some persons who do not qualify as Canadians under the definition finally adopted. The definition suggested is somewhat wide, for example, it includes a person who was born in Canada but has lived from infancy in, say, the United Kingdom. I gave consideration to defining a Canadian as a British subject domiciled in Canada, but this definition would probably shut out some claimants in the Far East who would seem to have good moral claims even though not domiciled in Canada at the time of loss. The definition would be a narrow one and I tried to devise a definition somewhere between the wide one and the narrow one, but found it impossible to work out any defensible compromise between the two extremes. I have therefore decided to recommend the wide definition, but must point out that by paying interim compensation on the basis of this definition the Government is virtually precluded from restricting the definition for the purpose of the final adjudication of war claims.

- (e) A recommendation that where a claim is for compensation for death or personal injuries the deceased or the person injured as the case may be must have been a civilian. If it is eventually decided by the Government to admit claims in respect of persons not civilians the number of claims admitted for payment might easily be 10,000 or even 50,000, in which event there might not be \$2,000 in the fund for anybody. The same considerations apply to other recommendations which I shall make having the effect of limiting the number of claimants. If these are eventually broadened by the government so as to let in more claimants the results above indicated are possible. I cannot set out these recommendations in a letter of this kind - indeed they are not completely formulated - but I can say that they will be such that in my opinion the total number of claimants with admissible claims will not exceed the figures given above.

The risk under discussion, which I have called the "third risk", is, of course, one which I cannot appraise.

Yours respectfully,

"J. L. ILSLEY"

Commissioner.

CANADA
DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

WAR CLAIMS BRANCH

ADDRESS ALL
COMMUNICATIONS
TO THE
CUSTODIAN'S OFFICE

PLEASE REFER
TO

FILE NO.....

Victoria Building,
7 O'Connor Street,
Ottawa 4, Ontario.

February , 1952.

Dear Sir or Madam:

Re: War Claims Interim Compensation
War Claims arising out of Death.

We wish to refer to the correspondence concerning your claim arising out of the death of another person resulting from hostile acts during the recent war.

The Government of Canada proposes, in order to alleviate financial hardship, to make an advance payment in any proper case, on account of compensation that may subsequently be awarded to the claimant in respect of the death, by the Commission or other body that finally reviews the claim. This proposal has been discussed fully with the Advisory Commissioner on War Claims and, as a result of his recommendations, the War Claims Interim Compensation Rules have been adopted. A copy of the Rules is enclosed for your information.

The main requirements that must be met before an interim payment is made are as follows:

1. The claimant must at present be undergoing serious financial hardship.
2. The claimant must personally have suffered pecuniary loss as a result of the death.
3. The claimant must be the spouse, parent or child of the deceased as defined in the Rules.
4. The deceased must have been a civilian, as defined in the Rules, at the time of the death.
5. The claimant is also required to meet certain qualifications relating to his or her Canadian status as set out in the Rules.

We are enclosing Forms A, B and E. Form A is a statement in support of urgency of payment and we must first point out that unless you feel you can establish that you are undergoing serious financial hardship, no useful purpose would be served in completing any of the forms and we would appreciate your kindly returning same in the enclosed stamped, addressed envelope. You will observe that any information given on Form A will be treated as strictly confidential.

If, however, you are of the opinion that you are eligible for interim compensation and can meet the five main requirements mentioned above, you will no doubt wish to complete the forms and we suggest that Forms A and E be completed as soon as possible and returned to us, the other form following as soon as practicable. This form being the actual Application for Interim Compensation, should be accompanied by such material as you consider will establish the facts advanced in support thereof. You may subsequently be asked to submit further material. Please indicate if you desire the return of original documents submitted.

Any interim payment, of course, can be only a proportion of what the Government estimates you may finally be allowed in respect of your claim. Any such payment can be made only on the understanding that it will be repaid to the Government if, when your claim is finally considered, it is found that you are not eligible for compensation or that you are eligible for an amount less than the interim compensation so paid. On the other hand, if your application for interim compensation is declined that is not necessarily an indication that your claim will be finally declined.

Kindly note the following:-

The forms should be completed in duplicate, one set to be forwarded to this office and the other retained by you.

All answers should be written in a clear legible hand or typewritten.

In any subsequent correspondence please quote your above mentioned file number.

Yours very truly,

A. Napier
A. Napier,
Director,
War Claims Branch.

Enclosures.

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN
WAR CLAIMS BRANCH

ADDRESS ALL
COMMUNICATIONS
TO THE
CUSTODIAN'S OFFICE
PLEASE REFER
TO
FILE NO.....

Victoria Building,
7 O'Connor Street,
Ottawa 4, Ontario.

February , 1952.

Dear Sir or Madam:

Re: War Claims Interim Compensation - War
Claims arising out of Personal Injury.

We wish to refer to the correspondence concerning your claim arising out of personal injury resulting from hostile acts during the recent war.

The Government of Canada proposes, in order to alleviate financial hardship, to make an advance payment in any proper case, on account of compensation that may subsequently be awarded to the claimant in respect of the injury, by the Commission or other body that finally reviews the claim. This proposal has been discussed fully with the Advisory Commissioner on War Claims and, as a result of his recommendations, the War Claims Interim Compensation Rules have been adopted. A copy of the Rules is enclosed for your information.

The main requirements that must be met before an interim payment is made are as follows:

1. The claimant must at present be undergoing serious financial hardship.
2. The claimant must personally have suffered pecuniary loss as a result of the personal injury.
3. The injury must have been sustained by the claimant or his wife or child as defined in the Rules.
4. The injured person must have been a civilian, as defined in the Rules, at the time the event occurred which caused the injury.
5. The claimant is also required to meet certain qualifications relating to his or her Canadian status as set out in the Rules.

We are enclosing Forms A, and E. Form A is a statement in support of urgency of payment and we must first point out that unless you feel you can establish that you are undergoing serious financial hardship, no useful purpose would be served in completing any of the forms and we would appreciate your kindly returning same in the enclosed stamped, addressed envelope. You will observe that any information given on Form A will be treated as strictly confidential.

If, however, you are of the opinion that you are eligible for interim compensation and can meet the five main requirements mentioned above, you will no doubt wish to complete the forms and we suggest that Forms A and E be completed as soon as possible and returned to us, the other form following as soon as practicable. This form being the actual Application for Interim Compensation, should be accompanied by such material as you consider will establish the facts advanced in support thereof. You may subsequently be asked to submit further material. Please indicate if you desire the return of original documents submitted.

Any interim payment, of course, can be only a proportion of what the Government estimates you may finally be allowed in respect of your claim. Any such payment can be made only on the understanding that it will be repaid to the Government if, when your claim is finally considered, it is found that you are not eligible for compensation or that you are eligible for an amount less than the interim compensation so paid. On the other hand, if your application for interim compensation is declined that is not necessarily an indication that your claim will be finally declined.

Kindly note the following:-

The forms should be completed in duplicate, one set to be forwarded to this office and the other retained by you.

All answers should be written in a clear legible hand or typewritten.

In any subsequent correspondence please quote your above mentioned file number.

Yours very truly,

A. Napier
A. Napier,
Director,
War Claims Branch.

Enclosures.

P.C. 667
PRIVY COUNCIL
CANADA

AT THE GOVERNMENT HOUSE AT OTTAWA
MONDAY, the 4th day of FEBRUARY, 1952.

PRESENT

HIS EXCELLENCY

THE ADMINISTRATOR IN COUNCIL:

WHEREAS by Order in Council P.C. 3951 of 31st July 1951 the Right Honourable James Lorimer Illesley, P.C., K.C., Chief Justice of Nova Scotia, was appointed a Commissioner to inquire into and report upon claims arising out of World War II that have been asserted by Canadians in respect of death, personal injury, maltreatment and loss of or damage to property;

AND WHEREAS requests have been made with respect to losses resulting from deaths or injuries for payment of interim compensation pending the completion of the investigation of all such claims;

AND WHEREAS the Commissioner was requested to submit an interim report on the practicability of making payments of interim compensation and by his interim report dated November 2, 1951, the Commissioner has recommended payment of interim compensation in certain cases.

THEREFORE, His Excellency the Administrator in Council, on the recommendation of the Secretary of State, is pleased to authorize and doth hereby authorize the Minister of Finance to make payment by way of advance on account of compensation that may finally be awarded with respect to war claims that the Treasury Board is satisfied are eligible for payment in accordance with the rules set out in the Schedule hereto, to be known as the "War Claims Interim Compensation Rules", the payments to be made out of moneys appropriated by Parliament to provide for miscellaneous, minor and unforeseen expenses or out of moneys provided by Parliament for the payment of war claims.

N. A. Robertson

Clerk of the Privy Council.

Schedule.

1. These rules may be cited as the "War Claims Interim Compensation Rules".

Interpretation.

2. In these rules,
 - (a) "act complained of" means the act of the belligerent armed forces or the maltreatment causing the death or injury in respect of which a claim is made;
 - (b) "Canadian domicile" means Canadian domicile within the meaning of the Immigration Act;
 - (c) "child" includes step-child, adopted child, grandchild and a person to whom the deceased or the claimant stood in loco parentis;
 - (d) "civilian" means a person who at the time of the death or act complained of, as the case may be, was not a member of any armed forces, police forces, organized group or other class to or in respect of all or some members of which benefits have been provided by way of pension, gratuity, or other compensation for injury or death arising out of service in World War II under

The Pension Act
The Women's Royal Naval Services and the
South African Military Nursing Service
(Benefits) Act
The Civilian War Pensions and Allowances Act
The Special Operators War Service Benefits Act
The Supervisors War Service Benefits Act

or any similar statute or regulation of Canada or Newfoundland or of any other country and notwithstanding that such pension, gratuity or compensation may not be payable to or in respect of that person, although he is a member of the class;

- (e) "Domicile" means "domicile" in accordance with the principles of the Common Law;
- (f) "enemy government" means the government of any of the German Reich, Hungary, Italy, Japan and Roumania;
- (g) "operations of war" means
 - (i) acts of actual warfare by belligerent armed forces, enemy, allied or Canadian, outside of Canada and Newfoundland, and
 - (ii) maltreatment in internment or detention by the civilian or military authorities of an enemy government;
- (h) "Parent" includes father, mother, grandfather, grandmother, step-father, step-mother, a person who adopted a child and a person who stood in loco parentis to the deceased or to the claimant;
- (i) "World War II" means
 - (i) in the case of the war against the German Reich, Hungary, Italy and Roumania, the period from September 1, 1939 until May 8, 1945; and
 - (ii) in the case of the war against Japan, the period from December 7, 1941, until September 2, 1945.

Canadian.

3. (1) For the purposes of these rules "Canadian" means:-

(a) with respect to any time on and after the first day of January, 1947, a Canadian citizen within the meaning of the Canadian Citizenship Act, and

(b) with respect to any relevant time before the first day of January, 1947, means a person

(i) who was born in Canada and had not become an alien at the relevant time;

(ii) who was born outside of Canada and his father, or in the case of a person born out of wedlock, his mother.

(A) was born in Canada and had not become an alien at the time of that person's birth, or

(B) was, at the time of that person's birth, a British subject who had Canadian domicile

if at the relevant time that person had not become an alien and had either been lawfully admitted to Canada for permanent residence or was a minor;

(iii) who was granted or whose name was included in a certificate of naturalization granted in Canada and that person had not become an alien at the relevant time;

- (iv) who at the relevant time was a British subject who had Canadian domicile;
- (v) who being a woman other than a woman who comes within paragraph (iii) or (iv)
 - (A) before the relevant time was married to a man who at the time of the marriage possessed the qualifications set out in paragraphs (i), (ii), (iii) or (iv); and
 - (B) at the relevant time was a British subject and had been lawfully admitted to Canada for permanent residence; or
- (vi) who at the relevant time was a British subject having a domicile in Canada.

(2) For the purposes of these rules, Newfoundland shall be deemed at all times to have been part of Canada.

(3) Where any question arises under these rules as to whether a person had Canadian domicile or was or is a Canadian citizen within the meaning of the Canadian Citizenship Act at any time, or had domicile in Canada or was a British subject at any time, the Custodian appointed by the Revised Regulations respecting Trading with the Enemy (1943) or the Treasury Board may refer the question to the Deputy Minister of Citizenship and Immigration, the Under-Secretary of State for External Affairs or the Deputy head of any other Department having information with respect thereto for his opinion and advice and may request to be furnished with such information as may be available to him and the Deputy Minister, Under-Secretary or other Deputy head shall furnish such opinion, advice or information.

Interim Compensation.

4. Payment may be made of an amount not exceeding one-half of the amount that the Treasury Board is satisfied is the amount of the loss sustained by a claimant, or \$2,000, whichever is less, if the Treasury Board is satisfied

- (a) that the claimant is undergoing serious financial hardship at the time he makes his claim for payment, and
- (b) that the loss resulted from injury to the claimant or to his wife or child, or from the death of another person, caused by operations of war during World War II and the requirements of these rules are complied with.

5. Where a claim is for loss resulting from the death of a person payment may be made if the following requirements are met:

- (a) the claimant was a Canadian at the time of the act complained of, at the time of the death and at the time the claim is allowed;
- (b) the claimant was the spouse, parent or child of the deceased;
- (c) the deceased was a civilian at the time of the act complained of and at the time of the death;
- (d) the amount of the claim does not exceed the pecuniary loss suffered by the claimant as a result of the death of the deceased.

6. Where a claim is for loss resulting from personal injuries, payment may be made if the following requirements are met:-

- (a) the injury was sustained by the claimant or his wife or child;
- (b) the claimant was a Canadian at the time of the act complained of and at the time the claim is allowed;
- (c) the person injured was a civilian at the time of the act complained of;
- (d) the amount payable does not exceed the pecuniary loss to the claimant resulting from the injury, and in computing the pecuniary loss permanent impairment of earning capacity shall be included as a ground of loss, but earning capacity is not deemed to have been impaired during any period of internment or detention.

7. In computing the pecuniary loss under Section 5(d) or Section 6(d), no amount shall be allowed with respect to pain and suffering, loss of enjoyment of life, loss of consortium, or loss or diminution of expectation of life,

8. No interim compensation is payable if, in the opinion of the Treasury Board, the claimant is likely to receive or has received fair and reasonable compensation from another source in respect of the death or injury for which the claim is made.

9. It shall be a condition to the payment of interim compensation that the claimant undertake and agree to repay to His Majesty the amount paid by way of interim compensation if it is subsequently determined that the claimant is not eligible to receive any compensation, or such part of the amount paid as is in excess of the amount that it is subsequently determined that the claimant is eligible to receive, for the loss in respect of which the claim was made.

10. Where the claim has been made by or on behalf of an infant or other person under any legal incapacity, payment may be made to such a person and on such conditions as the Treasury Board may determine.

Procedure.

11. A claim for interim compensation under these rules shall be made to the Custodian appointed by the Revised Regulations respecting Trading with the Enemy (1943) in such form and manner as the Treasury Board may prescribe.

Ottawa, February 4, 1952.

WAR CLAIMS INTERIM COMPENSATION

FORM A

STATEMENT OF CLAIMANTS' URGENT
NEED FOR INTERIM COMPENSATION.

To the Director,
War Claims Branch,
Department of Secretary of State,
Ottawa.

1. Full name of applicant (Please print with surname first)

2. Address of applicant _____

3. Date of birth of applicant _____

4. (a) What is your present occupation? _____

- (b) Are you self-supporting? _____

- (c) If not self-supporting, state reason _____

5. State names and addresses of any persons who may be consulted concerning your financial affairs.

6. State fully all the facts that you wish to be considered in deciding whether you are at present undergoing such serious financial hardship as to make you eligible for an interim payment. (Before answering, read Section 4(a) of the War Claims Interim Compensation Rules.)

I intend to apply for interim compensation in accordance with the War Claims Interim Compensation Rules and declare that the foregoing answers are true and that I have not withheld any information necessary to give a true view of my present financial situation.

Dated this day of , 1952.

Signature of Applicant

THE INFORMATION CONTAINED IN THIS STATEMENT WILL BE
REGARDED AS STRICTLY CONFIDENTIAL.

WAR CLAIMS INTERIM COMPENSATION

FORM B.

APPLICATION FOR INTERIM COMPENSATION FOR
LOSS ARISING OUT OF THE DEATH OF ANOTHER.

To the Director,
War Claims Branch,
Department of Secretary of State,
Ottawa.

I _____ of _____
print full name

intend to seek compensation for pecuniary loss arising out of
the death of the person named hereunder and wish to apply for an
interim payment on account of any amount that may finally be
allowed to me.

INFORMATION CONCERNING DECEASED

1. Full name of deceased (please print) _____

2. Last place of normal residence _____

3. Date of birth _____
4. Ordinary profession, business or occupation _____

5. Relationship of deceased to applicant _____
6. State as nearly as you are able:
 - (a) Date of death _____
 - (b) Place of death _____
 - (c) Circumstances surrounding or causing death
(outline history of events in detail).

(d) Persons you consider responsible for death.

7. Was deceased at any time in connection with World War II a member of the armed forces, police forces or any group organized for work as a result of the war? _____. If so specify the forces or group and dates of service.

INFORMATION CONCERNING LOSS TO APPLICANT

8. Give itemized statement of actual out-of-pocket expenses incurred by you personally by reason of the death. (Attach receipts or other vouchers)
9. How much will you finally claim for pecuniary loss to yourself (other than out-of-pocket expenses) arising out of the death? _____
10. Show in detail the calculations by which you arrive at the amount you show in paragraph 9 and the facts that you consider support these calculations.
11. State details of any payment received or expected to be received by you as a result of the death including any pension, gratuity, insurance or inheritance (but not including your present claim).
12. Give names and addresses of any other persons who could furnish further information about the foregoing matters.
13. Add any comments you wish.

I declare the foregoing facts to be true to the best of my knowledge and belief.

Dated this _____ day of _____, 1952.

Signature of Applicant.

USE ADDITIONAL PAGES WHERE SPACE IS INSUFFICIENT

WAR CLAIMS INTERIM COMPENSATION

FORM C.

APPLICATION FOR INTERIM COMPENSATION ARISING
OUT OF PERSONAL INJURY TO ANOTHER

To The Director,
War Claims Branch,
Department of Secretary of State,
Ottawa.

I _____ of _____
intend to seek compensation for pecuniary loss arising out of
personal injury to the person named hereunder and wish to apply
for an interim payment on account of any amount that may finally
be allowed to me.

INFORMATION CONCERNING INJURED PERSON

1. Full name of injured person (Please print) _____

2. Address _____

3. Date of birth _____
4. Ordinary profession, business or occupation
(a) at time of injury _____
(b) now _____
5. Relationship to applicant _____
6. State as nearly as you are able
(a) Date injury inflicted _____
(b) Place where event causing injury happened _____

(c) Circumstances surrounding or causing injury
(outline history of events in detail)

(d) Persons you consider responsible for injury.

7. (a) Describe injury in detail.

(b) Has the injury permanently impaired earning capacity? _____

(c) Describe how injury results in loss of earning capacity.

(d) State what gainful occupations injured person is now capable of following.

(Note: The answers in paragraph 7 must be supported by the written diagnosis and opinion of a fully qualified medical practitioner. In addition, any medical report or other evidence concerning the nature of the injuries at the time they were incurred would be of assistance.)

8. Was injured person at any time in connection with World War II a member of the armed forces, police forces or any group organized for work as a result of the war? _____ If so specify the forces or group and dates of service.

INFORMATION CONCERNING LOSS TO APPLICANT

9. Give itemized statement of actual out-of-pocket expenses incurred by you personally by reason of the injuries. (Attach receipts or other vouchers)

10. How much will you finally claim for pecuniary loss to yourself (other than out-of-pocket expenses) arising out of the permanent impairment of the earning capacity of the injured person? _____
11. Show in detail the calculations by which you arrive at the amount you show in paragraph 10 and the facts that you consider support these calculations. _____
12. State details of any payment received or expected to be received by you as a result of the injuries including any pension, gratuity or insurance (but not including any payment in respect of your present claim). _____
13. Give names and addresses of:
- (a) a medical practitioner whom the Government may consult concerning the injuries and disability.
 - (b) any other persons who could furnish further information about the foregoing matters.
14. May a medical practitioner named by the Government examine the injured person? _____
15. Add any comments you wish.

I declare the foregoing facts to be true to the best of my knowledge and belief.

Dated this day of , 1952.

Signature of Applicant

USE ADDITIONAL PAGES WHERE SPACE IS INSUFFICIENT.

WAR CLAIMS INTERIM COMPENSATION

FORM D.

APPLICATION FOR INTERIM COMPENSATION ARISING
OUT OF PERSONAL INJURY TO CLAIMANT

To The Director,
War Claims Branch,
Department of Secretary of State,
Ottawa.

I intend to seek compensation for pecuniary loss arising out of personal injury sustained by me and wish to apply for an interim payment on account of any amount that may finally be allowed to me.

1. Full name of applicant (please print) _____

2. Address _____

3. Date of birth _____
4. Ordinary profession, business or occupation
(a) at time of injury _____
(b) now _____
5. State as nearly as you are able
(a) Date injury inflicted _____
(b) Place where event causing injury happened _____

(c) Circumstances surrounding or causing injury. (Outline history of events in detail)

(d) Persons you consider responsible for injury _____

6. (a) Describe injury in detail.

(b) Has the injury permanently impaired your earning capacity _____

(c) Describe how injury results in loss of earning capacity.

(d) State what gainful occupations you are now capable of following.

(Note: The answers in paragraph 6 must be supported by the written diagnosis and opinion of a qualified medical practitioner. In addition, any medical report or other evidence concerning the nature of the injuries at the time they were incurred would be of assistance.)

7. Were you at any time in connection with World War II a member of the armed forces, police forces or any group organized for work as a result of the war? _____ If so specify the forces or group and dates of service.

8. Give itemized statement of actual out-of-pocket expenses incurred by you personally by reason of the injuries. (Attach receipts or other vouchers).

9. How much will you finally claim for pecuniary loss to yourself (other than out-of-pocket expenses) arising out of the permanent impairment of your earning capacity? _____

10. Show in detail the calculations by which you arrive at the amount you show in paragraph 9 and the facts that you consider support these calculations.

11. State details of any payment received or expected to be received by you as a result of the injuries, including any pension, gratuity, or insurance (but not including any payment in respect of your present claim).

12. Give names and addresses of
 - (a) a medical practitioner whom the Government may consult concerning your injuries and disability.

 - (b) any other person who could furnish further information about the foregoing matters.

13. May a medical practitioner named by the Government examine you? _____
14. Add any comments you wish.

I declare the foregoing facts to be true to the best of my knowledge and belief.

Dated this day of 1952.

Signature of Applicant.

USE ADDITIONAL PAPER WHERE SPACE IS INSUFFICIENT

WAR CLAIMS INTERIM COMPENSATION

FORM E

STATEMENT CONCERNING CANADIAN STATUS OF APPLICANT.

I

TO BE ANSWERED BY ALL APPLICANTS
(Read footnotes first)

1. Date of birth
2. Country and place of birth
3. Date, country and place of birth of father
.....
4. Give place of issue and number of any Canadian or British
passport you have held
5. State countries in which you have resided (including Canada)
during the past twenty years, with dates
.....
.....
6. State whether you are at present a Canadian citizen
.....
7. If in addition to being a Canadian citizen, you have ever
possessed the nationality of any other country, or are still
a national of another country, state the circumstances
.....
.....
8. If you are not now a Canadian citizen, give your present
national status, and how it was acquired
.....

II

TO BE ANSWERED ONLY BY PERSONS BORN
OUTSIDE CANADA

9. If you were born outside Canada, and your father was a
British subject at the time of your birth, answer the
following questions if applicable:
 - (a) Was your father naturalized as a British subject in
Canada or elsewhere before your birth?
 - (b) If your father was born outside Canada, did he have
Canadian domicile at the time of your birth?.....
10. If you became a Canadian by reason of having been a British
subject with Canadian domicile, state:
 - (a) How you became a British subject
.....

- (b) Date of your landing in Canada for permanent residence
.....
- (c) Port of entry
- (d) Name of ship or railway
11. If you became a British subject by naturalization in Canada or elsewhere, or if your name was included in a Certificate of Naturalization, state date, place of issue, number and series of the Certificate of Naturalization
-

III

TO BE ANSWERED ONLY BY WOMEN WHO ARE MARRIED, ARE WIDOWS
OR WHOSE MARRIAGES HAVE BEEN DISSOLVED

12. Maiden Name
13. If you became a British subject by marriage, answer the following questions where applicable:
- (a) Date of such marriage
- (b) Country, place and date of your husband's birth
-
- (c) If your husband was a natural-born British subject but was not born in a Commonwealth country, British colony, territory or possession, state how his father became a British subject
-
- (d) If your husband became a British subject by naturalization in Canada or elsewhere give date, place of issue and the number of his Certificate of Naturalization
-
- (e) Date of your landing in Canada for permanent residence, if applicable
-
- (f) Port of entry
- (g) Name of ship or railway
14. If your husband was not a British subject at the time of your marriage, give:
- (a) Country, place and date of his birth
-
- (b) His nationality at the time of your marriage

I declare the foregoing answers to be true to the best of my knowledge and belief.

Dated this day of ,1952.

Signature of Applicant

(See footnotes overleaf)

Footnotes

1. You should regard Newfoundland as part of Canada for the purposes of this form.
2. The expression "Canadian domicile" in this form means domicile in Canada acquired after admission to Canada for permanent residence in accordance with the Immigration Act.
3. If you need any further explanations the Director of War Claims will assist you if you write to him.

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Administrator on the 31st July, 1951.

The Committee of the Privy Council have had before them a report dated July 27, 1951, from the Secretary of State, representing:

That, arising out of World War II, many claims have been asserted by Canadians, hereinafter referred to as War Claims, in respect of death, personal injury, maltreatment, and loss of or damage to property;

That in respect of some of these claims partial compensation is provided for and may be obtained under treaties of peace or other international instruments, but that in respect of the bulk of them, no provision for compensation has been made; and

That such War Claims are matters connected with the public business of Canada and it is deemed advisable now to appoint a Commissioner under Part I of the Inquiries Act, Chapter 99 of the Revised Statutes, 1927, to inquire into and report to the Governor in Council.

The Committee, therefore, on the recommendation of the Secretary of State, advise:

1. That under and in pursuance of the Inquiries Act a Commission do issue appointing the Right Honourable James Lorimer Ilsley, P.C., K.C., to be a Commissioner to inquire into and to report upon the aforesaid matters;

2. That, without restricting the generality of the above terms of reference, the Commissioner shall, in particular, make recommendations as to the following matters:

(a) An estimate or calculation as to the amount of the total funds available for the payment of such claims;

(b) The classification of War Claims and an estimate of the number of each class and of the total amount of such claims;

(c) As to (i) which class or classes of claims should be admitted for payment in full and (ii) which, if any, in part only, and (iii) which, if any, should be rejected;

(d) The classification of claimants whose claims should be admitted;

(e) The priorities, if any, that should be established for payment of (i) classes of claims and (ii) classes of claimants;

(f) The limitation of time that should be prescribed within which War Claims shall be filed;

(g) The maximum sum of compensation, if any, that should be prescribed in relation to any class of War Claims or claimants;

(h) The nationality or domicile at time of loss and/or at the time of filing the claim of claimants entitled to compensation;

(i) The method to be adopted for determining loss in case of each class of War Claims;

(j) Whether interest should in any cases be allowed; and

(k) The tribunal or tribunals that should be authorized to adjudicate upon individual claims and the rules of procedure and evidence to be adopted by such tribunals.

3. That the Commissioner be authorized to engage the services of counsel, technical advisers or other experts, clerks or reporters as he may deem necessary or advisable, at rates of compensation to be approved by the Governor in Council.

4. That the Commissioner be paid travelling and living allowances while absent from his place of residence, for which accounts shall be submitted.

N. A. Robertson,
Clerk of the Privy Council.

CONFIDENTIAL

MEMORANDUM TO CABINET

Re: WAR CLAIMS AND BELLIGERENT ENEMY ASSETS

THE SECRETARY OF STATE HAS THE HONOUR TO REPORT AS FOLLOWS:

1. THE INTERDEPARTMENTAL COMMITTEE ON REPARATIONS AND PEACE TREATY IMPLEMENTATION, WHICH ON JUNE 2, 1948, WAS INSTRUCTED TO PREPARE RECOMMENDATIONS TO CABINET "ON ALL MATTERS PERTAINING TO REPARATIONS AND THE IMPLEMENTATION OF PEACE TREATIES WHICH CANADA HAS SIGNED OR WOULD SIGN", HAS RECOMMENDED "THAT A ROYAL COMMISSION BE APPOINTED IMMEDIATELY TO REVIEW THE QUESTION OF CANADIAN CLAIMS ARISING OUT OF THE 1939-45 WAR, TO RECOMMEND TO THE GOVERNMENT THE METHOD OF SETTLEMENT OF THESE CLAIMS, AND TO INVESTIGATE, ADJUDICATE AND DECIDE ON AWARDS WITH RESPECT TO INDIVIDUAL CLAIMS".
2. THE TREATIES OF PEACE (ITALY, ROUMANIA, HUNGARY AND FINLAND) ACT, 1948, (11-12 GEORGE VI C. 71) EMPOWERS THE GOVERNOR-IN-COUNCIL TO "MAKE SUCH APPOINTMENTS, ESTABLISH SUCH OFFICES, MAKE SUCH ORDERS OR REGULATIONS AND DO SUCH THINGS AS APPEAR TO HIM TO BE NECESSARY FOR CARRYING OUT THE TREATIES, AND FOR GIVING EFFECT TO ANY OF THE PROVISIONS THEREOF". IT PROVIDES THAT ANY EXPENSE INCURRED IN CARRYING OUT THE TREATIES SHALL BE DEFRAYED OUT OF MONEYS PROVIDED BY PARLIAMENT.
3. A LARGE NUMBER OF CLAIMS HAVE NOW BEEN RECEIVED AND CLASSIFIED BY THE WAR CLAIMS BRANCH OF THE CUSTODIAN'S OFFICE AND ARE READY FOR CONSIDERATION BY SUCH COMMISSION, TRIBUNAL, BODY OR PERSON AS THE GOVERNOR-IN-COUNCIL MAY SEE FIT TO APPOINT FOR THE PURPOSE.
4. A GREAT NUMBER OF THE SAID CLAIMS DO NOT COME WITHIN THE TREATIES OF PEACE WITH ITALY, ROUMANIA, HUNGARY AND FINLAND. FOR INSTANCE, THERE ARE LARGE CLAIMS IN RESPECT OF GERMANY AND JAPAN, WITH WHICH TWO COUNTRIES NO TREATY OF PEACE HAS YET BEEN SIGNED, AND ALSO IN RESPECT OF ALLIED COUNTRIES.

HOWEVER, THE PARIS AGREEMENT ON GERMAN REPARATIONS, WHICH HAS BEEN APPROVED BY A RESOLUTION OF PARLIAMENT, MAKES GERMAN REPARATIONS AND SUCH GERMAN ASSETS AS ARE VESTED IN THE CUSTODIAN AVAILABLE TO CANADA FOR SETTLEMENT OF WAR CLAIMS.

THE UNITED STATES, AMONGST OTHER COUNTRIES, HAVE MADE PROVISION FOR THE LIQUIDATION OF THEIR GERMAN AND JAPANESE ASSETS AND FOR THE APPLICATION OF THE PROCEEDS TO THE PAYMENT OF WAR CLAIMS AND THEY HAVE DONE SO THROUGH AN AMENDMENT TO THEIR TRADING WITH THE ENEMY ACT.

THE AUTHORITY GIVEN TO THE GOVERNOR IN COUNCIL BY THE TREATIES OF PEACE (ITALY, ROUMANIA, HUNGARY AND FINLAND) ACT, 1948, CANNOT BE USED FOR THE PURPOSE OF THE INVESTIGATION AND DISPOSAL OF WAR CLAIMS NOT COMING WITHIN THOSE TREATIES. HOWEVER, THE INQUIRIES ACT (C. 99, R.S.C. 1927) AFFORDS AMPLE AUTHORITY FOR THE SETTING UP OF A COMMISSION OR OTHER BODY TO INVESTIGATE, AND ADVISE THE GOVERNMENT ON THE DISPOSAL OF SUCH CLAIMS AS DO NOT COME WITHIN THE TERMS OF THE TREATIES OF PEACE WITH ITALY, ROUMANIA, HUNGARY AND FINLAND.

5. THE TOTAL AMOUNT OF CLAIMS FILED TO DATE WHICH ARE ALLEGED TO HAVE ARISEN DIRECTLY FROM OPERATIONS OF WAR OR TO BE COVERED BY THE PROVISIONS OF THE PEACE TREATIES IS APPROXIMATELY \$65,000,000. THE CLAIMS COMPRISED IN THIS FIGURE OF \$65,000,000. WERE SO CLASSIFIED PURSUANT TO A CABINET DIRECTIVE OF MAY 6, 1948 AND A BREAKDOWN THEREOF IS SET OUT IN PARAGRAPH 8 OF THE PRESENT MEMORANDUM.

CLAIMS FILED TO DATE WHICH HAVE BEEN CLASSIFIED AS ARISING INDIRECTLY FROM OPERATIONS OF WAR AND AS NOT COMING WITHIN THE PEACE TREATIES AMOUNT TO APPROXIMATELY \$25,000,000.

IN ADDITION TO THE SAID WAR AND PEACE TREATY CLAIMS, AMOUNTING TO APPROXIMATELY \$90,000,000., THERE HAVE BEEN FILED WITH THE CUSTODIAN'S OFFICE AND THE DEPARTMENT OF EXTERNAL AFFAIRS CERTAIN NATIONALIZATION AND PRE-WAR CLAIMS, THE TOTAL AMOUNT OF WHICH IS ESTIMATED TO BE IN THE NEIGHBOURHOOD OF \$250,000,000., AND WHICH IN THIS MEMORANDUM ARE NOT INCLUDED IN THE EXPRESSION "WAR AND PEACE TREATY CLAIMS."

ON THE OTHER HAND, IT IS NOT EXPECTED THAT THE TOTAL AMOUNT OF REPARATIONS AND NET PROCEEDS OF THE LIQUIDATION OF BELLIGERENT ENEMY ASSETS CHARGEABLE TO REPARATIONS WILL EXCEED \$15,000,000. (AS AGAINST AN OUTSIDE TOTAL OF \$340,000,000. OF ALL CLAIMS).

6. A DECISION IS REQUIRED AS TO WHETHER THE CANADIAN GOVERNMENT AND ITS AGENCIES ARE TO BE COMPENSATED OUT OF REPARATIONS (INCLUDING THE PROCEEDS OF LIQUIDATION OF ASSETS) OR ANY WAR CLAIMS FUND THAT MAY BE SET UP, AND WHETHER ANY BALANCE OF SUCH REPARATIONS OR FUND AFTER PAYMENT OF ALL WAR AND PEACE TREATY CLAIMS FOUND ADMISSIBLE FOR COMPENSATION SHOULD BE TURNED OVER TO THE CONSOLIDATED REVENUE FUND. IT IS SUGGESTED THAT THE CANADIAN GOVERNMENT AND ITS AGENCIES SHOULD NOT PUT FORWARD ANY CLAIM IN RESPECT OF THE GENERAL COST OF THE CONDUCT OF THE WAR, BUT ONLY CLAIMS FOR THE LOSS OF SPECIFIC PROPERTY AND OF THE SAME TYPE AS ADMISSIBLE CLAIMS OF INDIVIDUALS AND PRIVATE CORPORATIONS AND FIRMS. SHOULD THE CANADIAN GOVERNMENT AND ITS AGENCIES CLAIM COMPENSATION FOR THE GENERAL COST OF THE WAR OUT OF THE REPARATIONS FUND, THERE MIGHT BE PRACTICALLY NOTHING LEFT IN SUCH FUND FOR NON-GOVERNMENTAL CLAIMANTS.

IN THIS CONNECTION, IT SHOULD BE NOTED THAT CANADA, THE UNITED STATES AND THE UNITED KINGDOM HAVE ALLEGEDLY WAIVED ANY CLAIMS TO GENERAL REPARATIONS THEY MIGHT HAVE AGAINST CERTAIN FORMER ENEMY COUNTRIES (APPARENTLY FINLAND, HUNGARY, ITALY AND ROUMANIA). IF THAT INFORMATION IS CORRECT, THE CANADIAN GOVERNMENT WILL BE EXPECTED TO SHARE ON THE SAME FOOTING AS PRIVATE CANADIAN CLAIMANTS IN THE REPARATIONS OR COMPENSATION PROVIDED FOR CANADIAN WAR CLAIMS BY THE TREATIES SIGNED WITH THOSE COUNTRIES; IN OTHER WORDS, AS FAR AS THE GENERAL COST OF THE WAR IS CONCERNED, TO CONTENT ITSELF WITH TAKING OVER THE BALANCE, IF ANY, LEFT IN THE REPARATIONS FUND AFTER PRIVATE CLAIMANTS HAVE BEEN COMPENSATED.

7. DEPENDING ON THE ANSWERS GIVEN TO THE QUESTIONS RAISED IN PARAGRAPH 6 HEREOF, A DECISION IS REQUIRED FROM CABINET AS TO WHETHER ANY COMPENSATION IN RESPECT OF WAR AND PEACE TREATY CLAIMS WILL BE PAID OUT OF THE CONSOLIDATED REVENUE FUND SHOULD THE REPARATIONS (ESTIMATED ABOVE AT NOT MORE THAN \$15,000,000.) BE LESS THAN THE TOTAL AMOUNT OF COMPENSATION RECOMMENDED TO BE PAID.

8. IRRESPECTIVE OF WHAT DECISION IS MADE, AND OF WHEN IT IS MADE, AS TO SOURCES OF COMPENSATION, IT IS SUBMITTED THAT CABINET SHOULD DIRECT THE CUSTODIAN IMMEDIATELY TO INITIATE GENERAL LIQUIDATION OF GERMAN AND JAPANESE ENEMY ASSETS HELD BY HIM. THE ENEMY ASSETS OF ITALY, HUNGARY AND ROUMANIA OR THEIR NATIONALS SHOULD NOT BE GENERALLY LIQUIDATED AT THIS TIME, IT IS SUBMITTED, BECAUSE NEGOTIATIONS TOWARDS A LUMP SUM SETTLEMENT OF CLAIMS AND THE RELEASE OF THE ASSETS ARE PENDING WITH ITALY AND CABINET HAS AUTHORIZED THE DEPARTMENT OF EXTERNAL AFFAIRS TO INITIATE SIMILAR NEGOTIATIONS WITH HUNGARY AND ROUMANIA.

THE FIGURES AS TO THE ASSETS OF AND CLAIMS AGAINST THESE FIVE COUNTRIES ARE AS FOLLOWS, (AS OF DECEMBER 31ST, 1949):

	<u>ASSETS</u>	<u>CLAIMS</u>
GERMANY	\$ 8,923,171.13	\$ 44,264,100.
JAPAN	3,732,866.36	6,471,900.
ITALY	3,516,096.81	2,309,500.
HUNGARY	254,631.86	9,644,000.
ROUMANIA	289,850.42	1,048,200.
LOSSES AT SEA NOT ALLOCATED TO ANY COUNTRY		2,273,500.
	<hr/> \$16,716,616.58	<hr/> \$ 66,011,200.

NOTE: (ALLOCATION OF RESPONSIBILITY FOR SOME WAR LOSSES IS DIFFICULT, EVEN LEGALLY IMPOSSIBLE, ESPECIALLY IN THE ABSENCE OF PEACE TREATIES WITH GERMANY AND JAPAN, AND THE ABOVE ALLOCATION BY COUNTRY IS THEREFORE PRESENTED ONLY FOR WHAT IT MAY BE WORTH.)

WITH REFERENCE TO THE POSSIBILITY OF AGREEMENTS BEING REACHED WITH ITALY, HUNGARY AND ROUMANIA, IT IS SUBMITTED THAT SUCH AGREEMENTS SHOULD BE SO DRAFTED AS TO PRESERVE GENERAL EQUALITY OF TREATMENT AS BETWEEN CANADIAN CLAIMANTS. IN OTHER WORDS, IT IS SUBMITTED THAT IT IS DESIRABLE TO PLACE ALL CANADIAN WAR AND PEACE TREATY CLAIMS AGAINST ALL FORMER BELLIGERENT ENEMIES ON THE SAME FOOTING AS FAR AS POSSIBLE FOR THE PURPOSES OF PAYMENT OF COMPENSATION THEREFOR. IF AND WHEN AN AGREEMENT IS REACHED WITH ANY OF THE SAID THREE COUNTRIES UNDER WHICH A LUMP SUM IS RECEIVED FROM THAT COUNTRY BY CANADA IN FINAL SETTLEMENT OF CANADIAN CLAIMS IN RETURN FOR THE RELEASE OF THAT COUNTRY'S ASSETS BY CANADA, THAT COUNTRY WILL NOT THEREAFTER BE CONCERNED WITH THE USE OF THE SAID SUM OR THE DISPOSAL OF SUCH CLAIMS BY CANADA. ON THE OTHER HAND, SHOULD ANY SUCH AGREEMENT CALL FOR THE "PROCESSING" OF CLAIMS AND THE RETURN BY CANADA OF ANY EXCESS OF THE REPARATION PAYMENT OVER THE TOTAL AMOUNT OF CLAIMS ADMITTED FOR COMPENSATION, IT IS SUBMITTED THAT THE AGREEMENT SHOULD, IF AT ALL POSSIBLE, PROVIDE FOR THE "PROCESSING" OR DISPOSAL OF THE CLAIMS THEREUNDER TO BE CARRIED OUT IN CANADA BY THE SAME CANADIAN COMMISSION, TRIBUNAL OR BOARD AS WILL DEAL WITH CANADIAN CLAIMS AGAINST OTHER FORMER ENEMY COUNTRIES.

IT IS CONSIDERED THAT THE CANADIAN GOVERNMENT SHOULD AS SOON AS POSSIBLE MAKE PROVISION FOR CANADIAN INVESTIGATION OF AND ADJUDICATION UPON CANADIAN CLAIMS, WITHOUT WAITING FOR THE RIGHTS OF CANADA AND HER CLAIMANTS UNDER THE PEACE TREATIES TO BE DETERMINED (BY AGREEMENT OR ARBITRATION) OR THE PROCEDURAL AND OTHER REQUIREMENTS OF THE TREATIES TO BE MET. ANY AGREEMENTS, ADJUSTMENTS AND SETTLEMENTS THAT MAY BE NECESSARY ON THE INTERNATIONAL PLANE (UNDER THE TREATIES) CAN ALWAYS BE MADE. IT IS CONCEIVABLE THAT THE CANADIAN GOVERNMENT MAY DECIDE TO ADVANCE CERTAIN AMOUNTS OF MONEY TO COMPENSATE OUR CLAIMANTS AFTER THE SUGGESTED "PROCESSING" IN CANADA HAS TAKEN PLACE, THE GOVERNMENT TO RECOUP ITSELF FROM THE FORMER ENEMY COUNTRIES CONCERNED.

IT MIGHT BE FEASIBLE TO KEEP SUCH ADVANCES BY THE GOVERNMENT TO A WAR CLAIMS FUND WITHIN THE LIMITS OF WHAT COULD BE EXPECTED TO BE COLLECTED FROM THOSE COUNTRIES.

SECTION 44 OF THE TRADING WITH THE ENEMY REGULATIONS AUTHORIZES THE CUSTODIAN TO "CHARGE AGAINST ALL PROPERTY INVESTIGATED, CONTROLLED OR ADMINISTERED BY HIM, WHETHER THE PROPERTY HAS VESTED IN HIM OR NOT, A FEE FOR SERVICES RENDERED NOT EXCEEDING TWO PER CENTUM OF THE VALUE OF THE PROPERTY INCLUDING THE INCOME THEREFROM" AND TO "EMPLOY SUCH PART OF THE PROPERTY VESTED IN HIM OR THE PROCEEDS THEREFROM AS MAY BE NECESSARY TO PAY THE EXPENSES INCURRED IN THE ADMINISTRATION OF" THE REGULATIONS. SECTION 50 OF THE SAID REGULATIONS PROVIDES THAT "PROPERTY VESTED IN THE CUSTODIAN IS LIABLE FOR ANY TAX, MORTGAGE, LIEN, CHARGE, RENT, INTEREST OR PAYMENT THEREON". IT IS SUBMITTED THAT THESE PROVISIONS MEAN, IN EFFECT, THAT ADMINISTRATION EXPENSES AND FEES AND ALSO IN REM CHARGES OR SECURED DEBTS SHOULD BE PAID OUT OF THE GROSS PROCEEDS OF THE LIQUIDATION OF THE ASSETS. THERE IS AT PRESENT SOME DOUBT AS TO THE PRECISE MEANING OF THE WORDS "OR PAYMENT THEREON" IN SECTION 50, AS WELL AS OF THE EXPRESSION "CHARGE AGAINST" IN SECTION 44.

ON THE OTHER HAND, THE PARIS AGREEMENT ON GERMAN REPARATIONS CLEARLY CONTEMPLATES PAYMENT, NOT ONLY OF IN REM CHARGES, BUT ALSO OF LEGITIMATE CONTRACT CLAIMS AGAINST THE GERMAN FORMER OWNERS OF THE ASSETS BEFORE ANY PROCEEDS ARE CHARGED AGAINST CANADA'S SHARE OF REPARATIONS. AS TO THE TREATIES OF PEACE WITH ITALY, HUNGARY AND ROUMANIA, THEY CONTAIN NO RESTRICTION AS TO THE TYPES OR CLASSES OF CLAIMS WHICH MAY BE PAID OUT OF THE PROCEEDS (GROSS OR NOT), BUT THEY AUTHORIZE CANADA TO APPLY THE PROPERTY OR THE PROCEEDS THEREOF TO SUCH PURPOSES AS IT MAY DESIRE, WITHIN THE LIMITS OF ITS CLAIMS, INCLUDING DEBTS, NOT OTHERWISE SATISFIED UNDER THE TREATIES.

THEREFORE, SHOULD IT BE DECIDED TO APPLY THE PROCEEDS OF LIQUIDATION OF BELLIGERENT ENEMY PROPERTY TO THE PAYMENT OF COMPENSATION FOR WAR CLAIMS AND SHOULD LEGISLATION OR, WITH RESPECT TO HUNGARY, ITALY AND ROUMANIA, AN ORDER-IN-COUNCIL UNDER THE TREATIES OF PEACE (ITALY, ROUMANIA, HUNGARY AND FINLAND) ACT, 1948, BE PASSED GIVING AUTHORITY THEREFOR, SUCH LEGISLATION OR ORDER-IN-COUNCIL SHOULD, IT IS SUBMITTED, CONTAIN PROVISIONS AS TO WHAT, IF ANY, CHARGES AND OTHER CLAIMS ARE TO BE PAID OUT OF THE GROSS PROCEEDS. IT IS SUGGESTED THAT SUCH PROVISIONS SHOULD BE FOR THE PAYMENT ONLY OF ADMINISTRATION EXPENSES AND FEES AND OF IN REM CHARGES OR DEBTS SECURED BY THESE ASSETS. UNSECURED CONTRACT CREDITORS OF THE FORMER OWNERS OF BELLIGERENT ENEMY PROPERTY WOULD THEN BE LEFT TO CLAIM COMPENSATION AS FOR WAR OR PEACE TREATY CLAIMS.

SPECIAL AUTHORITY TO USE THE PROCEEDS OF LIQUIDATION OF ENEMY PROPERTY FOR THE PAYMENT OF WAR CLAIMS IS REQUIRED BECAUSE UNDER THE TRADING WITH THE ENEMY REGULATIONS, AS CONSTRUED BY THE DEPUTY MINISTER OF JUSTICE, THE RELEASE OF THE PROPERTY OR THE PROCEEDS OF ITS LIQUIDATION CAN ONLY BE MADE TO THE FORMER OWNER.

10. ANOTHER QUESTION WITH RESPECT TO FINANCIAL POLICY CONCERNS PAYMENT OF THE EXPENSES OF THE COMMISSION'S ENQUIRY. DECISION IS REQUIRED AS TO WHETHER SUCH EXPENSES ARE TO BE PAID OUT OF THE CONSOLIDATED REVENUE FUND OR OUT OF THE SAID REPARATIONS, OR BOTH. HOWEVER, IT SHOULD BE POINTED OUT THAT SECTION 6 OF THE TREATIES OF PEACE (ITALY, ROUMANIA, HUNGARY AND FINLAND) ACT, 1948, PROVIDES THAT ANY EXPENSE INCURRED IN CARRYING OUT THE TREATIES SHALL BE DEFRAYED OUT OF MONEYS PROVIDED BY PARLIAMENT. THAT PROVISION, IT IS SUBMITTED, IS APPLICABLE TO THE COST OF THE ENQUIRY OF THE PROPOSED COMMISSION IN SO FAR AS CLAIMS OF THOSE COUNTRIES ARE CONCERNED. IT WOULD SEEM DIFFICULT AND IMPRACTICABLE TO ATTEMPT TO DISTINGUISH BETWEEN EXPENSES ATTRIBUTABLE TO CLAIMS IN RESPECT OF THE SAID FOUR COUNTRIES AND EXPENSES ATTRIBUTABLE TO OTHER CLAIMS. FURTHERMORE, IT IS ASSUMED THAT CABINET WILL WISH TO ADOPT WITH RESPECT TO ALL WAR AND PEACE TREATY CLAIMS THE POLICY EMBODIED IN THE SAID PROVISION OF THE ACT REFERRED TO.

11. THE FOLLOWING ALTERNATIVE PROPOSALS ARE SUBMITTED FOR CONSIDERATION BY CABINET:

A) PROPOSAL I: THAT A WAR CLAIMS COMMISSION BE CONSTITUTED UNDER PART I OF THE INQUIRIES ACT TO INVESTIGATE WAR AND PEACE TREATY CLAIMS AND MAKE RECOMMENDATIONS TO THE GOVERNOR-IN-COUNCIL, THROUGH THE SECRETARY OF STATE, AS TO THE PAYMENT OF COMPENSATION IN RESPECT OF SUCH CLAIMS OUT OF THE WAR CLAIMS FUND IN ACCORDANCE WITH THE RULES SET OUT IN SCHEDULE "B" HERETO.

(THE SAID RULES ARE ONLY IN PRELIMINARY DRAFT FORM AND WILL BE SUBMITTED TO THE DEPUTY MINISTER OF JUSTICE IF GENERALLY ACCEPTABLE TO CABINET. ATTACHED HERETO AS SCHEDULE "A" IS AN EXPLANATORY MEMORANDUM ON THE PRINCIPLES EMBODIED IN THE SAID RULES.)

B) PROPOSAL II: THAT A WAR CLAIMS COMMISSION BE CONSTITUTED UNDER PART I OF THE INQUIRIES ACT TO INVESTIGATE WAR AND PEACE TREATY CLAIMS AND MAKE RECOMMENDATIONS TO THE GOVERNOR-IN-COUNCIL, THROUGH THE SECRETARY OF STATE, AS TO THE PAYMENT, FROM SUCH SOURCES AS IT MAY RECOMMEND, OF COMPENSATION IN RESPECT OF SUCH CLAIMS IN ACCORDANCE WITH THE SAID RULES, OTHER THAN THOSE RELATING TO THE WAR CLAIMS FUND.

C) PROPOSAL III: THAT A WAR CLAIMS COMMISSION BE CONSTITUTED UNDER PART I OF THE INQUIRIES ACT TO INVESTIGATE WAR AND PEACE TREATY CLAIMS AND MAKE RECOMMENDATIONS TO THE GOVERNOR-IN-COUNCIL, THROUGH THE SECRETARY OF STATE, AS TO THE PAYMENT, FROM SUCH SOURCES AS THE GOVERNOR IN COUNCIL OR PARLIAMENT MAY THEREUPON DECIDE, OF COMPENSATION IN RESPECT OF SUCH CLAIMS IN ACCORDANCE WITH THE SAID RULES, OTHER THAN THOSE RELATING TO THE WAR CLAIMS FUND.

D) PROPOSAL IV: THAT A WAR CLAIMS COMMISSION BE CONSTITUTED UNDER PART I OF THE INQUIRIES ACT TO INVESTIGATE WAR AND PEACE TREATY CLAIMS AND MAKE RECOMMENDATIONS TO THE GOVERNOR-IN-COUNCIL, THROUGH THE SECRETARY OF STATE, AS TO WHAT CLASSES OF SUCH CLAIMS SHOULD BE ADMITTED FOR COMPENSATION, WHAT AMOUNT OF COMPENSATION (IF ANY) SHOULD BE PAID TO EACH CLAIMANT, WHAT PRIORITIES (IF ANY) SHOULD BE ESTABLISHED FOR PAYMENT AND AS TO THE FUNDS OR SOURCES OF PAYMENT FROM WHICH SUCH COMPENSATION SHOULD BE PAID.

E) PROPOSAL V: SAME AS PROPOSAL IV ABOVE, EXCEPT THAT THE COMMISSION SHOULD NOT MAKE RECOMMENDATIONS AS TO SOURCES OF PAYMENT.

UNDER PROPOSAL I, THE COMMISSION WOULD BE BOUND BY THE RULES ANNEXED HERETO, INCLUDING RULES AS TO SOURCES OF PAYMENT. IT MUST BE NOTED THAT ADOPTION OF PROPOSAL I INVOLVES THE MAKING NOW OF A DECISION BY THE GOVERNMENT AS TO SOURCES OF PAYMENT. UNDER PROPOSAL II, THE COMMISSION WOULD BE CALLED UPON TO MAKE RECOMMENDATIONS AS TO SOURCES OF PAYMENT, BUT WOULD BE BOUND BY THE OTHER PROVISIONS OF THE SAID RULES. UNDER PROPOSAL III, IT WOULD BE BOUND BY THE SAID RULES, EXCEPT THOSE RELATING TO SOURCES OF PAYMENT, AND THE GOVERNMENT (AND PROBABLY PARLIAMENT), WITHOUT ANY RECOMMENDATION THEREON FROM THE COMMISSION, WOULD THEN HAVE TO MAKE A DECISION AS TO SUCH SOURCES. PROPOSAL IV IS THE ONE INVOLVING THE BROADEST TERMS OF REFERENCE FOR THE COMMISSION. UNDER PROPOSAL V, THE TERMS OF REFERENCE WOULD NOT EXTEND TO SOURCES OF PAYMENT AND THE SITUATION WOULD BE THE SAME IN THIS RESPECT AS UNDER PROPOSAL III.

THE SECRETARY OF STATE WOULD RECOMMEND THE ADOPTION OF PROPOSAL IV, AS HAVING THE ADVANTAGE OF PROCURING TO THE GOVERNMENT, FOR MAKING THE IMPORTANT DECISIONS REQUIRED, THE FINDINGS OF FACT AND THE SUGGESTIONS AND ADVICE OF AN INDEPENDENT BODY. FURTHERMORE, PROPOSAL IV IS GENERALLY IN LINE WITH THE RECOMMENDATION OF THE INTERDEPARTMENTAL COMMITTEE ON REPARATIONS AND PEACE TREATY IMPLEMENTATION QUOTED IN PARAGRAPH I OF THIS MEMORANDUM.

12. OF THE \$90,000,000 OF WAR AND PEACE TREATY CLAIMS FILED TO DATE, APPLICATION BY THE COMMISSION OF THE RULES EMBODIED IN PROPOSALS I, II AND III CAN BE EXPECTED TO RESULT IN THE RULING OUT AS NOT ADMISSIBLE FOR COMPENSATION OF THE \$25,000,000 (APPROXIMATELY) OF CLAIMS ARISING INDIRECTLY FROM OPERATIONS OF WAR AND FURTHERMORE, OF APPROXIMATELY \$30,000,000 OF THOSE ALLEGEDLY ARISING DIRECTLY FROM OPERATIONS OF WAR OR ALLEGEDLY COMING WITHIN THE PROVISIONS OF THE PEACE TREATIES. THE REASON FOR REJECTING MOST OF THE CLAIMS COMPRISED IN THE LATTER AMOUNT OF \$30,000,000 WOULD BE THAT THE CLAIMANTS WERE NOT CANADIANS (AS DEFINED IN THE RULES) AT THE TIME OF LOSS. THE RULING OUT OF APPROXIMATELY \$55,000,000 OF CLAIMS AS ABOVE STATED WOULD LEAVE A BALANCE OF APPROXIMATELY \$35,000,000 OF WAR AND PEACE TREATY CLAIMS TO BE CONSIDERED BY THE COMMISSION AS TO THEIR ADMISSIBILITY AND AS TO THE AMOUNT OF COMPENSATION TO BE RECOMMENDED IN EACH CASE.

IF EITHER PROPOSAL IV OR V IS ADOPTED, IT SHOULD BE MADE CLEAR (BY A DEFINITION OR OTHERWISE IN THE ORDER IN COUNCIL) THAT "WAR AND PEACE TREATY CLAIMS" (TO BE REFERRED TO THE COMMISSION) INCLUDE ONLY CLAIMS ARISING DIRECTLY OR INDIRECTLY FROM OPERATIONS OF WAR DURING WORLD WAR II AND CLAIMS ARISING UNDER TREATIES OF PEACE. THIS IS RECOMMENDED ON THE ASSUMPTION, OF COURSE, THAT CABINET WILL AGREE THAT SOME LIMITATION (IF NOT THE LIMITATIONS CONTAINED IN THE RULES EMBODIED IN PROPOSALS I, II AND III) HAS TO BE PLACED ON THE TYPE OF CLAIMS CONCERNING WHICH THE PROPOSED COMMISSION IS TO MAKE RECOMMENDATIONS. THE UNCERTAINTY WHICH PRESENTLY EXISTS AS TO THE FUNDS THAT MAY BE AVAILABLE FOR COMPENSATING THE CLAIMANTS MAKES IT ADVISABLE, AT LEAST FOR THE TIME BEING, TO EXCLUDE SOME CLAIMS, PARTICULARLY THOSE NOT ARISING FROM THE WAR AND NOT COVERED BY PEACE TREATIES.

THE EXCLUSION OF CERTAIN CLAIMS AT THIS TIME WOULD NOT PRECLUDE THE GOVERNMENT FROM LATER MAKING PROVISION FOR THE WAR CLAIMS COMMISSION OR ANY OTHER BODY, TRIBUNAL OR PERSON TO CONSIDER ANY OF THE CLAIMS AT FIRST EXCLUDED THROUGH ADOPTION OF ANY OF THE PROPOSALS SUBMITTED HEREIN.

13. THE NEWFOUNDLAND GOVERNMENT HAS A CLAIM AGAINST ITALY IN THE AMOUNT OF \$255,952.95 ARISING OUT OF THE PAYMENT MADE BY IT OF INDEMNITY CLAIMS IN RESPECT OF A CARGO OF SALT CODFISH EXPORTED TO ITALY AND WHICH CAME WITHIN A PRE-WAR CODFISH EXPORT INSURANCE SCHEME UNDER WHICH THAT GOVERNMENT WAS THE INSURER OR GUARANTOR. ATTACHED HERETO, AS SCHEDULE "C", IS COPY OF A MEMORANDUM PREPARED BY THE SECRETARY FOR FINANCE OF NEWFOUNDLAND UNDER DATE OF DECEMBER 2, 1948, WHICH SETS OUT THE NATURE AND AMOUNT OF THE CLAIM.

UNDER SECTION 7 OF THE RULES SET OUT IN SCHEDULE "B" HERETO, WHICH WOULD GOVERN THE ADMISSIBILITY OF CLAIMS IF PROPOSAL I, II OR III WERE ADOPTED, THE SAID CLAIM WOULD BE INADMISSIBLE AS BEING A CLAIM BY AN INSURER OR GUARANTOR. THE SECRETARY OF STATE RECOMMENDS THAT IF PROPOSAL I, II OR III IS ADOPTED CONSIDERATION BE GIVEN TO AMENDING THE RULES SO AS TO MAKE THE SAID CLAIM ADMISSIBLE.

IF, ON THE OTHER HAND, PROPOSAL IV OR V IS ADOPTED, THE SECRETARY OF STATE RECOMMENDS THAT THE QUESTION OF THE ADMISSIBILITY OF THIS CLAIM BE LEFT TO BE DEALT WITH AND RECOMMENDED UPON BY THE WAR CLAIMS COMMISSION IN THE LIGHT OF SUCH REPRESENTATIONS AS THE NEWFOUNDLAND GOVERNMENT MAY SEE FIT TO SUBMIT TO THE COMMISSION.

HOWEVER, SHOULD AN AGREEMENT BE MADE WITH ITALY, THE SECRETARY OF STATE RECOMMENDS THAT THERE BE INCLUDED THEREIN, IF POSSIBLE, A SPECIAL PROVISION UNDER WHICH THIS CLAIM WOULD BE RECOGNIZED AND PAID SEPARATELY BY ITALY, AND CANADA WOULD PAY OVER TO THE GOVERNMENT OF THE PROVINCE OF NEWFOUNDLAND THE AMOUNT OF COMPENSATION RECEIVED FROM ITALY IN RESPECT OF SUCH CLAIM. FURTHERMORE, SUCH SPECIAL PROVISION SHOULD, THE SECRETARY OF STATE RECOMMENDS, BE EXTENDED TO THE NON-GOVERNMENTAL NEWFOUNDLAND CLAIMS, WHICH AMOUNT TO \$21,807.68. THE RESULT WOULD BE THAT THE COMPENSATION RECEIVED FROM ITALY FOR ALL NEWFOUNDLAND CLAIMS, (GOVERNMENTAL AND NON-GOVERNMENTAL, - WHICH AMOUNT TO \$277,160.63 AS AGAINST A TOTAL OF \$26,092.53 OF ASSETS UNDER THE NEWFOUNDLAND CUSTODIAN'S CONTROL AT UNION), WOULD NOT GO INTO ANY POOL OR WAR CLAIMS FUND, BUT BE PAID OVER TO THE CLAIMANTS, WHO WOULD THUS, IN EFFECT, BE PAID BY PREFERENCE.

14. A DECISION IS REQUIRED AS TO THE NUMBER OF MEMBERS OF THE PROPOSED COMMISSION AND AS TO WHO THEY SHOULD BE. HOWEVER, THIS DECISION NEED NOT BE MADE AT THE SAME TIME AS THOSE REQUESTED IN PARAGRAPH 16 OF THIS MEMORANDUM. WHEN THE LATTER DECISIONS HAVE BEEN MADE, A DRAFT RECOMMENDATION TO COUNCIL (AND DRAFT LEGISLATION, IF NECESSARY) CAN BE PREPARED AND SUBMITTED TO THE DEPARTMENT OF JUSTICE PENDING A DECISION AS TO THE APPOINTEE OR APPOINTEES TO THE COMMISSION.

15. A DECISION IS ALSO REQUIRED AS TO WHETHER THE COMMISSION WILL BE AUTHORIZED TO ENGAGE AND FIX THE REMUNERATION OF COUNSEL, TECHNICAL ADVISERS, EXPERTS, CLERKS, REPORTERS AND OTHER ASSISTANTS, AND WHETHER THE COMMISSIONER OR COMMISSIONERS ARE TO BE REMUNERATED IF HE OR THEY ARE NOT JUDGES. IF ANY COMMISSIONER IS A JUDGE AND HE IS TO BE PAID MOVING OR TRANSPORTATION EXPENSES AND A LIVING ALLOWANCE, PROVISION THEREFORE SHOULD BE MADE IN THE ORDER IN COUNCIL.

FURTHERMORE, IT IS SUGGESTED THAT CABINET AUTHORIZE THE MAKING OF PROVISION FOR ASSISTANCE, INFORMATION AND DOCUMENTS TO BE FURNISHED TO THE COMMISSION BY DEPARTMENTS, BRANCHES AND PORTIONS OF THE PUBLIC SERVICE OF CANADA AND, MORE PARTICULARLY, FOR MAKING THE SERVICES OF THE PERSONNEL OF THE WAR CLAIMS BRANCH OF THE CUSTODIAN'S OFFICE AVAILABLE TO THE COMMISSION.

16. THE SECRETARY OF STATE, THEREFORE, WILL BE PLEASED TO HAVE DIRECTIONS IN THE MATTER AND MORE ESPECIALLY DECISIONS ON THE FOLLOWING POINTS:

(A) WHETHER PROPOSAL IV IS TO BE ADOPTED, AS RECOMMENDED ABOVE BY THE SECRETARY OF STATE;

(B) IF (A) IS ANSWERED IN THE NEGATIVE, WHICH, IF ANY, OF THE OTHER PROPOSALS (I, II, III OR V) SET OUT IN PARAGRAPH II HEREOF IS TO BE ADOPTED;

(C) WHETHER THE EXPENSES OF THE WAR CLAIMS COMMISSION SHOULD BE DEFRAYED OUT OF MONIES APPROPRIATED BY PARLIAMENT;

(D) IF (C) IS ANSWERED IN THE NEGATIVE, AND THE EXPENSES OF THE COMMISSION ARE TO BE DEFRAYED OUT OF REPARATIONS, WHETHER ITS EXPENSES SHOULD BE SUBJECT TO SOME AUTHORITY OR CONTROL BY THE COMPTROLLER OF THE TREASURY OR THE TREASURY BOARD OR BOTH;

(E) WHETHER THE COMMISSION SHOULD BE EMPOWERED TO ENGAGE THE SERVICES AND FIX THE SALARIES OR OTHER REMUNERATION OF COUNSEL, TECHNICAL ADVISERS, EXPERTS, CLERKS, REPORTERS AND OTHER ASSISTANTS;

(F) WHAT, IF ANY, PROVISION IS TO BE MADE FOR THE REMUNERATION OF ANY COMMISSIONER WHO IS NOT A JUDGE AND FOR THE PAYMENT OF MOVING OR TRANSPORTATION EXPENSES AND A LIVING ALLOWANCE TO ANY COMMISSIONER WHO IS A JUDGE;

(G) WHETHER PROVISION SHOULD BE MADE REQUIRING DEPARTMENTS AND BRANCHES OF THE PUBLIC SERVICE OF CANADA TO FURNISH ASSISTANCE, INFORMATION AND DOCUMENTS TO THE COMMISSION AND MAKING THE SERVICES OF THE PERSONNEL OF THE WAR CLAIMS BRANCH OF THE CUSTODIAN'S OFFICE AVAILABLE TO THE COMMISSION;

(H) WHETHER THE CUSTODIAN IS TO INITIATE NOW GENERAL LIQUIDATION OF GERMAN AND JAPANESE ASSETS HELD BY HIM;

(I) IF PROPOSAL I IS ADOPTED, WHETHER LEGISLATION SHOULD BE DRAFTED NOW TO PROVIDE FOR THE PAYMENT OUT OF THE GROSS PROCEEDS OF THE LIQUIDATION OF THE GERMAN AND JAPANESE ASSETS, OF ADMINISTRATION EXPENSES AND FEES AND OF IN REM CHARGES OR DEBTS SECURED BY THESE ASSETS AND FOR THE PAYMENT OF THE NET PROCEEDS INTO THE WAR CLAIMS FUND;

(J) WHETHER THE CANADIAN GOVERNMENT AND ITS AGENCIES ARE TO BE COMPENSATED OUT OF REPARATIONS (INCLUDING THE PROCEEDS OF LIQUIDATION OF ASSETS) ONLY IN RESPECT OF THEIR CLAIMS FOR THE LOSS OF SPECIFIC PROPERTY AND SUBJECT TO THE SAME CONDITIONS AS PRIVATE CLAIMANTS, SO AS TO EXCLUDE CANADIAN GOVERNMENT CLAIMS IN RESPECT OF THE GENERAL COST OF THE CONDUCT OF THE WAR;

(K) IF PROPOSAL I IS ADOPTED, WHETHER PARLIAMENT IS, IN DUE COURSE, TO BE ASKED FOR A VOTE TO MAKE GOOD ANY DEFICIENCY IN THE WAR CLAIMS FUND UNDER SECTION 3 OF THE RULES ANNEXED AS SCHEDULE "B" HERETO AND WHETHER ANY BALANCE THAT MAY REMAIN IN SUCH FUND AFTER PAYMENT OF ALL CLAIMS FOUND ADMISSIBLE IS TO BE TURNED OVER TO THE CONSOLIDATED REVENUE FUND;

(L) (I) IF PROPOSAL I, II OR III IS ADOPTED, WHETHER THE RULES CONTAINED IN SCHEDULE "B" HERETO SHOULD BE SO AMENDED AS TO MAKE THE NEWFOUNDLAND GOVERNMENT'S CLAIM AGAINST ITALY ADMISSIBLE FOR COMPENSATION;

(II) IRRESPECTIVE OF WHICH PROPOSAL IS ADOPTED FOR THE ESTABLISHMENT AND TERMS OF REFERENCE OF A WAR CLAIMS COMMISSION, WHETHER AN ENDEAVOUR SHOULD BE MADE TO INCLUDE IN ANY AGREEMENT THAT MAY BE MADE WITH ITALY A SPECIAL CLAUSE FOR THE SEPARATE RECOGNITION AND PAYMENT BY ITALY OF THE NEWFOUNDLAND CLAIMS, GOVERNMENTAL AND NON-GOVERNMENTAL, AND WHETHER, IF SUCH CLAUSE IS AGREED TO AND DISTINCT COMPENSATION FOR THOSE CLAIMS IS RECEIVED ACCORDINGLY, THAT COMPENSATION SHOULD BE TURNED OVER TO THE NEWFOUNDLAND CLAIMANTS, AND NOT PAID INTO ANY WAR CLAIMS FUND.

OTTAWA, MARCH 27, 1950.

SCHEDULE "A"

MEMORANDUM ON THE RULES SET
OUT IN SCHEDULE "B"

1. WAR CLAIMS ARE TO BE PAID FROM THE NET PROCEEDS OF THE DISPOSAL OF BELLIGERENT ENEMY ASSETS UNDER THE CONTROL OF THE CUSTODIAN AND FROM FUNDS RECEIVED ON ACCOUNT OF REPARATIONS BY THE DEPARTMENT OF FINANCE OR ANY OTHER DEPARTMENT.

IN THE CASES OF ITALY, HUNGARY AND ROUMANIA THE POSSIBILITY EXISTS THAT ONE OR MORE OF THE GOVERNMENTS CONCERNED MAY PROVIDE A LUMP-SUM IN SETTLEMENT OF PEACE TREATY CLAIMS IN CONSIDERATION FOR THE RETURN OF ASSETS UNDER CONTROL; BUT IN THE CASES OF HUNGARY AND ROUMANIA THIS POSSIBILITY IS REMOTE.

2. THE FUNDS AVAILABLE ARE, SUBJECT TO CERTAIN PRIORITIES, TO BE APPLIED EQUALLY TO THE PAYMENT OF ALL ADMISSIBLE CLAIMS, I.E. THE FUNDS TO BE "POOLED" AND THE ASSETS FROM PARTICULAR COUNTRIES ARE NOT TO BE APPLIED TO CLAIMS ONLY IN RESPECT OF THOSE COUNTRIES.

IT WAS FELT THAT IT WOULD BE DIFFICULT TO JUSTIFY FULL PAYMENT IN ONE CASE AND A PAYMENT REPRESENTING A VERY SMALL FINAL DIVIDEND IN ANOTHER CASE ALTHOUGH IN BOTH CASES THE CAUSES AND EXTENT OF THE LOSS OR DAMAGE MAY HAVE BEEN ALMOST IDENTICAL. WE ARE ADVISED THAT "POOLING" OF ASSETS WOULD NOT CONSTITUTE BREACHES ON THE PART OF CANADA OF THE PEACE TREATIES ALREADY SIGNED OR OF THE PARIS AGREEMENT ON REPARATIONS FROM GERMANY. IT MAY BE OBJECTED THAT WHERE CLAIMS ARE MADE FOR LOSS IN A COUNTRY AND THE CUSTODIAN HOLDS ASSETS FROM THAT COUNTRY SUFFICIENT TO MEET THEM, THESE ASSETS SHOULD NOT BE USED FOR MEETING CLAIMS FOR LOSS IN OTHER COUNTRIES WHOSE ASSETS ARE INSUFFICIENT OR FROM WHOM WE HOLD NO ASSETS AVAILABLE FOR PAYMENT OF WAR CLAIMS. ONE ANSWER TO THAT OBJECTION, HOWEVER, IS THE DIFFICULTY OF DETERMINING WHAT CLAIMS ARE TO BE CHARGED AGAINST EACH COUNTRY.

3. ONLY THE CLAIMS OF THOSE PERSONS WHO WERE CANADIANS, INCLUDING NEWFOUNDLANDERS, AT TIME OF LOSS SHOULD BE ADMITTED.

TO THIS AN EXCEPTION HAS BEEN MADE FOR CERTAIN CLAIMS PUT FORWARD BY VETERANS AND ALSO FOR CERTAIN CLASSES OF DEBT CLAIMS ARISING UNDER THE TREATY OF PEACE WITH ITALY. THE SAME TREATMENT HAS NOT BEEN RECOMMENDED IN RESPECT OF SIMILAR DEBT CLAIMS ARISING UNDER THE TREATIES OF PEACE WITH HUNGARY AND ROUMANIA OWING TO THE FACT THAT IN THE CASE OF THESE TWO COUNTRIES THE ASSETS UNDER THE CONTROL OF THE CUSTODIAN ARE SO SMALL IN RELATION TO THE CLAIMS.

IN THE CASE OF A CORPORATION, THE TEST AS TO WHETHER A CORPORATION IS CANADIAN OR NOT SHOULD BE WHETHER CANADIANS ARE SUBSTANTIALLY THE BENEFICIAL OWNERS OF THE CORPORATION CONCERNED.

4. THE ONLY CLAIMS TO BE ADMITTED ARE:-

A. CLAIMS FOR COMPENSATION IN RESPECT OF:

- (I) LOSS OF LIFE OR PERSONAL INJURY;
- (II) INTERNMENT OR DETENTION UNDER SUBSTANDARD CONDITIONS, OR
- (III) LOSS OR DISAPPEARANCE OF OR DAMAGE TO TANGIBLE PROPERTY,

ARISING DIRECTLY FROM OPERATIONS OF WAR, AND

B. (I) CERTAIN UNDISPUTED DEBT CLAIMS ARISING OUT OF THE TREATY OF PEACE WITH ITALY, AND

(II) CERTAIN CLAIMS UNDER THE TREATIES OF PEACE WITH HUNGARY AND ROUMANIA AND ARISING OUT OF NATIONALIZATION AND LAND REFORM CONFISCATION.

EXCEPT WITH RESPECT TO ITALY - AND THEN ONLY IN A LIMITED CLASS OF CASES (WHICH POSSIBLY EXCLUDES THE NEWFOUNDLAND GOVERNMENT'S CLAIM IN THE AMOUNT OF \$255,952.95, AS GUARANTOR UNDER ITS PRE-WAR CODFISH EXPORT CREDIT INSURANCE SCHEME), NO CLAIMS FOR LOSSES RESULTING FROM NON-PAYMENT OF PRE-WAR DEBTS AND OBLIGATIONS ARE TO BE ADMITTED FOR PAYMENT OUT OF THE WAR CLAIMS FUND. THE GENERAL EXCLUSION OF PRE-WAR DEBTS AND OBLIGATIONS FROM PARTICIPATION IN REPARATIONS AND THE PROCEEDS OF LIQUIDATION OF BELLIGERENT ENEMY ASSETS, WAS RECOMMENDED BY THE INTERDEPARTMENTAL COMMITTEE ON REPARATIONS WHICH REPORTED IN DECEMBER, 1947, AND IS THE PRACTICE BEING ADOPTED BY OTHER COUNTRIES IN WAR CLAIMS COMPENSATION SCHEMES. THE UNITED KINGDOM GOVERNMENT, HOWEVER, AS PART OF ITS REPARATIONS SCHEME (AS DISTINGUISHED FROM ITS WAR CLAIMS COMPENSATION SCHEMES UNDER WHICH IT PAID CERTAIN WAR CLAIMS OUT OF THE TREASURY) PROPOSES TO USE THE PROCEEDS OF THE SALE OF GERMAN EXTERNAL ASSETS TO PAY CERTAIN CLASSES OF PRE-WAR CONTRACT CLAIMS. THE UNITED STATES GOVERNMENT IS PAYING ITS REPARATIONS INTO A GENERAL WAR CLAIMS FUND WITH A VIEW TO SATISFYING FIRST, CLAIMS OF THE KIND MENTIONED IN SUB-PARAGRAPHS (1) AND (11) OF 4A ABOVE AND HAS NOT LAID DOWN THE POLICY FOR SETTLEMENT OF OTHER CLAIMS OUT OF ANY RESIDUE. THE REPARATIONS UNDER THE PARIS AGREEMENT ARE FOR CLAIMS ARISING OUT OF THE WAR AND DO NOT AFFECT GERMANY'S RESPONSIBILITY FOR SECURING THE DISCHARGE OF CLAIMS AGAINST GERMANY OR GERMAN NATIONALS ARISING OUT OF PRE-WAR CONTRACTS AND OBLIGATIONS. IN THE CASE OF ITALY, AS ALREADY INTIMATED, IT HAS NOT BEEN FOUND POSSIBLE TO RECOMMEND EXCLUSION OF ALL CLASSES OF DEBT CLAIMS, BECAUSE THE TREATY CONTEMPLATES PAYMENT IN THESE CASES AND THE ASSETS OF ITALIAN ORIGIN UNDER CONTROL APPEAR TO BE SUFFICIENT.

5. OPERATIONS OF WAR ARE THOSE WHICH TOOK PLACE:

- (A) IN THE CASE OF THE WAR AGAINST THE EUROPEAN AXIS POWERS AND THEIR SATELLITES DURING THE PERIOD FROM SEPTEMBER 1, 1939, UNTIL MAY 8, 1945, BOTH DATES INCLUSIVE; AND
- (B) IN THE CASE OF THE WAR AGAINST THE IMPERIAL JAPANESE GOVERNMENT DURING THE PERIOD FROM DECEMBER 7, 1941, UNTIL SEPTEMBER 2, 1945, BOTH DATES INCLUSIVE.

6. DEATH, PERSONAL INJURY AND INTERNMENT OR DETENTION CLAIMS SHOULD BE PAID FIRST IN THAT ORDER. PROPERTY AND ANY OTHER CLAIMS SHOULD RANK AFTER THOSE AND IN SUCH A WAY AS THE COMMISSION SHOULD DETERMINE EXCEPT THAT THE CLAIMS REFERRED TO IN PARAGRAPH 4B (11) HEREOF SHOULD RANK LAST.

SCHEDULE "B"

RULES FOR PAYMENT OF WAR CLAIMS OUT OF WAR CLAIMS FUND

1. THESE RULES MAY BE CITED AS THE WAR CLAIMS RULES.

2. (1) IN THESE RULES

- (A) "BELLIGERENT ENEMY COUNTRIES" MEANS GERMANY, HUNGARY, ITALY, JAPAN AND ROUMANIA;
- (B) "CANADIAN" MEANS
 - (I) A PERSON BORN IN CANADA OR NEWFOUNDLAND WHO HAS NOT CEASED TO BE A BRITISH SUBJECT;
 - (II) A PERSON NATURALIZED IN CANADA OR NEWFOUNDLAND WHO HAS NOT CEASED TO BE A BRITISH SUBJECT;
 - (III) A PERSON WHO IS A BRITISH SUBJECT OTHER THAN A PERSON MENTIONED IN SUB-PARAGRAPHS (I) OR (II) DOMICILED IN CANADA OR NEWFOUNDLAND;
 - (IV) A CORPORATION, WHETHER INCORPORATED IN CANADA OR NEWFOUNDLAND OR ELSEWHERE, MORE THAN 50% OF WHOSE SHARE CAPITAL IS BENEFICIALLY OWNED BY CANADIANS, OR A CORPORATION INCORPORATED IN CANADA, A SUBSTANTIAL PART OF WHOSE SHARE CAPITAL, IN THE OPINION OF THE COMMISSION, IS OWNED BY CANADIANS AND WHOSE OPERATIONS IN THE OPINION OF THE COMMISSION WARRANT ACCEPTING THE CORPORATION AS A CANADIAN;
 - (V) HIS MAJESTY IN RIGHT OF A PROVINCE OR OF NEWFOUNDLAND;
 - (VI) HIS MAJESTY IN RIGHT OF CANADA; AND
 - (VII) (FROM THE DATE OF ENLISTMENT) A PERSON WHO ENLISTED BEFORE MAY 8, 1945, AND SERVED IN THE ARMED FORCES OF HIS MAJESTY RAISED IN CANADA DURING WORLD WAR II AND WAS HONOURABLY DISCHARGED THEREFROM AND WHO, ON OR BEFORE JUNE 30, 1950, HAS BECOME OR HAS GIVEN NOTICE OF INTENTION TO BECOME A CANADIAN CITIZEN;
- (C) "CHILD" INCLUDES A SON, DAUGHTER, GRANDSON, GRAND-DAUGHTER, STEPSON, STEPPAUGHTER, ADOPTED CHILD AND A PERSON TO WHOM THE DECEASED STOOD IN LOCO PARENTIS;
- (D) "DEPENDANT" MEANS THE WIFE, HUSBAND, PARENTS AND CHILDREN OF THE DECEASED;
- (E) "DESTRUCTION" INCLUDES DISAPPEARANCE OR DEPRIVATION OF OWNERSHIP BY REASON OF NATIONALIZATION;
- (F) "DISABILITY" MEANS THE LOSS OR LESSENING OF THE POWER TO WILL AND TO DO ANY NORMAL MENTAL OR PHYSICAL ACT;
- (G) "LOSS" MEANS PECUNIARY LOSS;
- (H) "NATIONALIZATION" MEANS APPROPRIATION BY OR UNDER THE AUTHORITY OF THE GOVERNMENT OF A COUNTRY OF THE OWNERSHIP OF PROPERTY EITHER FOR NATIONAL PURPOSES, LAND REFORM, REDISTRIBUTION OF PROPERTY OR OTHERWISE;
- (I) "OPERATIONS OF WAR" INCLUDE BUT ARE NOT LIMITED TO:-
 - (i) INTERNMENT, DETENTION, DEPORTATION, EVACUATION OR SUBJECTION TO FORCED LABOUR OR MALTREATMENT BY OR UNDER THE DIRECTION OF THE GOVERNMENT OF A BELLIGERENT ENEMY COUNTRY OR ITS FORCES;
 - (ii) SUBJECTION TO EXPOSURE AT SEA OR EXPOSURE ON LAND WHILE IN HIDING FROM THE FORCES OF THE GOVERNMENT OF A BELLIGERENT ENEMY COUNTRY;
 - (iii) LOOTING; AND
 - (iv) SEIZURE, SEQUESTRATION OR NATIONALIZATION OF PROPERTY BY OR UNDER THE AUTHORITY OF A GOVERNMENT OF A BELLIGERENT ENEMY COUNTRY;

- (J) "PARENT" INCLUDES A FATHER, MOTHER, GRANDFATHER, GRANDMOTHER, STEPFATHER, STEPMOTHER, A PERSON WHO ADOPTED A CHILD, AND A PERSON WHO STOOD IN LOCO PARENTIS TO THE DECEASED;
 - (K) "PROPERTY" MEANS REAL OR PERSONAL PROPERTY BUT DOES NOT INCLUDE CASH, COINS OR CURRENCY IN ANY FORM (OTHER THAN CASH, COINS OR CURRENCY HELD FOR THE PURPOSE OF NUMISMATICS), SECURITY OR STOCK CERTIFICATES, EVIDENCES OF OBLIGATION, DOCUMENTS WHETHER EVINCING ANY MATTER OR HAVING AN INTRINSIC VALUE OF THEIR OWN, CHOSES IN ACTION OF ANY KIND OR PATENTS, COPYRIGHTS, TRADEMARKS OR INDUSTRIAL DESIGNS;
 - (L) "SUBSTANDARD INTERNMENT CAMP" MEANS A CAMP THE OPERATION OF WHICH DID NOT MEET THE STANDARDS SET OUT IN THE GENEVA CONVENTION OF JULY 27, 1929, FOR THE OPERATION OF CAMPS FOR PRISONERS OF WAR;
 - (M) "TREATY OF PEACE" MEANS A TREATY OF PEACE ENTERED INTO PURSUANT TO WORLD WAR II TO WHICH CANADA IS A PARTY AT THE TIME THESE RULES WERE MADE;
 - (N) "WAR CLAIM" MEANS A CLAIM FOR COMPENSATION IN RESPECT OF DEATH OR INJURY IN RESPECT OF INTERNMENT OR DETENTION UNDER SUBSTANDARD CONDITIONS OR IN RESPECT OF LOSS OF OR DAMAGE TO PROPERTY ALLEGED TO HAVE ARISEN DIRECTLY FROM OPERATIONS OF WAR DURING WORLD WAR II;
 - (O) "WAR CLAIMS FUND" MEANS THE FUND DESCRIBED IN RULE 3.
- (2) FOR THE PURPOSES OF THESE RULES PROPERTY SHALL BE DEEMED TO HAVE BEEN NATIONALIZED ON THE DAY ON WHICH THE LAW OR DECREE DIVESTING THE PREVIOUS OWNER OF OWNERSHIP WAS MADE, NOTWITHSTANDING THAT THE LAW OR DECREE PURPORTED TO HAVE BEEN MADE EFFECTIVE FROM AN EARLIER DAY.
- (3) FOR THE PURPOSE OF THESE RULES, WHERE PROPERTY HAS DISAPPEARED DURING THE OCCUPATION OF A TERRITORY BY MILITARY FORCES OR DURING HOSTILITIES IT SHALL BE DEEMED TO HAVE BEEN DESTROYED BY REASON OF OPERATIONS OF WAR.
- (4) FOR THE PURPOSES OF THESE RULES, WORLD WAR II SHALL BE DEEMED TO BE ONLY THOSE OPERATIONS OF WAR WHICH TOOK PLACE
- (A) IN THE CASE OF THE WAR AGAINST THE EUROPEAN AXIS POWERS AND THEIR SATELLITES DURING THE PERIOD FROM SEPTEMBER 1, 1939, UNTIL MAY 8, 1945, BOTH DATES INCLUSIVE, EXCEPT AS PROVIDED IN SECTION 8 OF THESE RULES; AND
 - (B) IN THE CASE OF THE WAR AGAINST THE IMPERIAL JAPANESE GOVERNMENT DURING THE PERIOD FROM DECEMBER 7, 1941, UNTIL SEPTEMBER 2, 1945, BOTH DATES INCLUSIVE.

WAR CLAIMS FUND

3. FOR THE PURPOSES OF THESE RULES THERE SHALL BE A WAR CLAIMS FUND CONSISTING OF

- (A) THE PROCEEDS OF THE LIQUIDATION OF ASSETS FORMERLY BELONGING TO BELLIGERENT ENEMY COUNTRIES OR THEIR NATIONALS HELD BY THE CUSTODIAN UNDER THE TRADING WITH THE ENEMY (TRANSITIONAL POWERS) ACT, 1947, THE DISPOSAL OF WHICH ASSETS OR PROCEEDS IS NOT OTHERWISE PROVIDED FOR; AND
- (B) ALL PAYMENTS TO THE GOVERNMENT OF CANADA BY WAY OF REPARATIONS IN RESPECT OF WORLD WAR II, UNLESS THEY ARE APPROPRIATED TO SOME OTHER PURPOSE.

4.

- (1) THE COMMISSION MAY, AFTER INVESTIGATION, RECOMMEND PAYMENT OF COMPENSATION OUT OF THE WAR CLAIMS FUND IN ACCORDANCE WITH THESE RULES.
- (2) THE COMMISSION SHALL, SO FAR AS PRACTICABLE, INVESTIGATE AND MAKE RECOMMENDATIONS WITH RESPECT TO WAR CLAIMS IN RESPECT OF MATTERS PROVIDED FOR UNDER SECTION FIVE BEFORE INVESTIGATING WAR CLAIMS IN RESPECT OF MATTERS UNDER THE OTHER PROVISIONS OF THESE RULES.
- (3) WHERE THE COMMISSION HAS, SO FAR AS PRACTICABLE, COMPLETED THE INVESTIGATION OF CLAIMS MENTIONED IN SUBSECTION TWO, IT SHALL INVESTIGATE AND REPORT FROM TIME TO TIME AS IT DEEMS ADVISABLE ON WAR CLAIMS IN RESPECT OF MATTERS MENTIONED IN SECTIONS SIX, SEVEN AND EIGHT BY PERSONS WHO WERE CANADIANS AT THE TIME THE LOSS WAS INCURRED AND MAY RECOMMEND THAT
 - (A) THEY BE CLASSIFIED HAVING REGARD TO THE NATURE OF THE LOSS OR DAMAGE OR THE CIRCUMSTANCES IN WHICH IT WAS INCURRED OR THE CIRCUMSTANCES OF THE CLAIMANT OR THE EXTENT TO WHICH THE AMOUNTS ARE AVAILABLE IN THE WAR CLAIMS FUND TO PAY THEM;
 - (B) PAYMENT FOR SOME CLASSES THEREOF BE MADE IN PRIORITY IN WHOLE OR IN PART TO OTHER CLASSES THEREOF;
 - (C) THE MODE OF PAYMENT OF DIFFERENT CLASSES THEREOF; AND
 - (D) NO PAYMENT BE MADE OUT OF THE WAR CLAIMS FUND IN RESPECT OF A PARTICULAR CLAIM OR CLASS OF CLAIMS FOR WHICH PAYMENT MIGHT OTHERWISE BE MADE.
- (4) WHERE THE COMMISSION HAS, SO FAR AS PRACTICABLE, COMPLETED THE INVESTIGATIONS MENTIONED IN SUBSECTIONS TWO AND THREE, IT SHALL INVESTIGATE AND REPORT FROM TIME TO TIME AS IT DEEMS ADVISABLE ALL OTHER CLAIMS FOR PAYMENT UNDER THESE RULES AND MAY RECOMMEND THAT
 - (A) THEY BE CLASSIFIED HAVING REGARD TO THE NATURE OF THE LOSS OR THE CIRCUMSTANCES IN WHICH IT WAS INCURRED OR THE CIRCUMSTANCES OF THE CLAIMANT OR THE EXTENT TO WHICH AMOUNTS ARE AVAILABLE IN THE WAR CLAIMS FUND TO PAY THE CLAIM;
 - (B) PAYMENT FOR SOME CLASSES THEREOF BE MADE IN PRIORITY, IN WHOLE OR IN PART, TO OTHER CLASSES THEREOF;
 - (C) THE MODE OF PAYMENT OF DIFFERENT CLASSES THEREOF; AND
 - (D) NO PAYMENT BE MADE OUT OF THE WAR CLAIMS FUND IN RESPECT OF A PARTICULAR CLAIM OR CLASS OF CLAIMS FOR WHICH PAYMENT MIGHT OTHERWISE BE MADE.

COMPENSATION OUT OF WAR CLAIMS FUND

PERSONAL INJURY, DEATH, OR DETENTION, ETC.

5.

- (1) SUBJECT TO THESE RULES, THE COMMISSION MAY RECOMMEND THAT A PAYMENT BE MADE OUT OF THE WAR CLAIMS FUND TO A PERSON
 - (A) OF AN AMOUNT COMPUTED BY THE COMMISSION TO BE THE AMOUNT OF THE LOSS CAUSED TO THAT PERSON BY REASON OF DISABILITY RESULTING FROM INJURY OR DISEASE OR AGGRAVATION THEREOF SUFFERED BY HIM WHILE HE WAS A CANADIAN ATTRIBUTABLE DIRECTLY TO OPERATIONS OF WAR DURING WORLD WAR II;
 - (B) OF AN AMOUNT COMPUTED BY THE COMMISSION TO BE THE AMOUNT OF THE LOSS CAUSED TO THAT PERSON WHILE HE WAS A CANADIAN BY REASON OF THE DEATH OF A PERSON OF

... WHOM

- WHOM HE WAS A DEPENDENT RESULTING FROM INJURY OR DISEASE OR AGGRAVATION THEREOF ATTRIBUTABLE DIRECTLY TO OPERATIONS OF WAR DURING WORLD WAR II;
- (c) OF AN AMOUNT BY WAY OF COMPENSATION IN RESPECT OF INTERNMENT OR DETENTION OF THAT PERSON DURING WORLD WAR II IN A SUBSTANDARD INTERNMENT CAMP OR SUBSTANDARD DETENTION QUARTERS BY OR UNDER THE DIRECTION OF THE GOVERNMENT OF A BELLIGERENT ENEMY COUNTRY IN RESPECT OF ANY PERIOD DURING WHICH HE WAS IN HIDING FROM THE FORCES OF ANY SUCH GOVERNMENT DURING WORLD WAR II, IRRESPECTIVE OF WHETHER THE INTERNMENT, DETENTION OR HIDING RESULTED IN A DISABILITY TO HIM, IF HE WAS A CANADIAN AT THE TIME OF THE COMMENCEMENT OF THE INTERNMENT, DETENTION OR HIDING, AND IF SUCH INTERNMENT, DETENTION OR HIDING RESULTED DIRECTLY FROM OPERATIONS OF WAR.
- (2) THE AMOUNT THAT THE COMMISSION MAY RECOMMEND UNDER SUBSECTION ONE TO BE PAID OUT OF THE WAR CLAIMS FUND FOR LOSS IN RESPECT OF DISABILITY TO OR THE DEATH OF A PERSON SHALL BE SUCH AMOUNT AS HE CONSIDERS WOULD BE AWARDED BY A COURT OF CIVIL JURISDICTION IN CANADA BY WAY OF SPECIAL AND GENERAL DAMAGES AGAINST A PERSON LIABLE TO PAY DAMAGES FOR THE LOSS BUT THE AMOUNT COMPUTED WITH RESPECT TO GENERAL DAMAGES SHALL NOT EXCEED THE PRESENT VALUE AT THE TIME OF THE RECOMMENDATION OF THE AMOUNT THAT WOULD BE PAYABLE UNDER THE PENSIONS ACT IN RESPECT OF A LIKE DISABILITY TO OR OF THE DEATH OF A MEMBER OF THE ARMED FORCES OF HIS MAJESTY RAISED IN CANADA.
- (3) THE AMOUNT THAT THE COMMISSION MAY RECOMMEND TO BE PAID OUT OF THE WAR CLAIMS FUND BY WAY OF COMPENSATION IN RESPECT OF INTERNMENT, DETENTION OR ANY PERIOD OF HIDING OF A CANADIAN SHALL NOT EXCEED
- (A) \$2.50 FOR EACH DAY HE WAS SO INTERNEED, DETAINED OR IN HIDING; AND
- (B) REIMBURSEMENT FOR EXPENDITURES INCURRED IN RESPECT OF MEDICAL OR DENTAL ATTENTION OR CARE OR HOSPITALIZATION RESULTING FROM INTERNMENT, DETENTION OR HIDING, NOT EXCEEDING \$2500.00.
- (4) THE COMMISSION SHALL NOT RECOMMEND A PAYMENT OUT OF THE WAR CLAIMS FUND PURSUANT TO THIS SECTION IN RESPECT OF
- (A) DEATH OF OR DISABILITY INCURRED BY A PERSON WHILE A MEMBER OF THE ARMED FORCES OF HIS MAJESTY RAISED IN CANADA OR WHILE A MEMBER OF A CLASS OF PERSONS DURING A PERIOD IN RESPECT OF WHICH THE PENSIONS ACT APPLIED TO THAT CLASS OF PERSONS;
- (B) IMPRISONMENT, INTERNMENT OR DETENTION OF A PERSON, OR ANY PERIOD WHILE A PERSON WAS IN HIDING FROM THE ENEMY, WHILE THAT PERSON WAS A MEMBER OF THE ARMED FORCES OF HIS MAJESTY RAISED IN CANADA;
- (C) ANY LOSS OR CLAIM TO THE EXTENT THAT PAYMENT OR COMPENSATION HAS BEEN MADE THEREFOR FROM ANY OTHER SOURCE, INCLUDING INSURANCE.

PROPERTY - DAMAGE OR DESTRUCTION

- 6.
- (1) SUBJECT TO THESE RULES THE COMMISSION MAY RECOMMEND THAT A PAYMENT BE MADE OUT OF THE WAR CLAIMS FUND TO A PERSON IN RESPECT OF LOSS SUSTAINED BY HIM BY REASON OF DAMAGE TO OR THE DESTRUCTION OF PROPERTY OWNED BY HIM OR IN WHICH HE HAD AN INTEREST AS OWNER ARISING DIRECTLY FROM OPERATIONS OF WAR DURING WORLD WAR II, IF HE WAS A CANADIAN AT THE TIME OF THE DAMAGE OR DESTRUCTION.
 - (2) THE AMOUNT THAT THE COMMISSION MAY RECOMMEND TO BE PAID OUT OF THE WAR CLAIMS FUND FOR LOSS UNDER THIS SECTION SHALL NOT EXCEED THE COST OF REPAIR OR REPLACEMENT OF THE PROPERTY IN RESPECT OF WHICH IT IS PAID AT THE TIME OF THE RECOMMENDATION OF PAYMENT IN RESPECT THEREOF, WHICHEVER IS LESS, AND SHALL NOT INCLUDE ANY AMOUNT IN RESPECT OF LOSS OF USE OF THE PROPERTY OR LOSS OF REVENUE THEREFROM OR DEPRECIATION THEREOF BY ORDINARY WEAR AND TEAR.
 - (3) WHERE A PERSON TO WHOM A PAYMENT MAY BE RECOMMENDED BY THE COMMISSION UNDER THIS RULE IS A CORPORATION INCORPORATED OUTSIDE OF CANADA THE SHARE CAPITAL OF WHICH IS NOT WHOLLY OWNED BY CANADIANS, THE AMOUNT THAT THE COMMISSION MAY RECOMMEND TO BE PAID OUT OF THE WAR CLAIMS FUND TO THAT PERSON IN RESPECT OF LOSS SHALL NOT EXCEED THE PERCENTAGE OF THE AMOUNT THAT MAY BE RECOMMENDED UNDER SUBSECTION TWO THAT THE SHARE CAPITAL OWNED BY CANADIANS IS OF THE TOTAL SHARE CAPITAL OF THE CORPORATION.
 - (4) THE COMMISSION SHALL NOT RECOMMEND A PAYMENT OUT OF THE WAR CLAIMS FUND PURSUANT TO THIS RULE.
 - (A) FOR LOSS FOR WHICH PAYMENT BY WAY OF FULL OR PARTIAL COMPENSATION HAS BEEN MADE UNDER A STATUTE OF THE PARLIAMENT OF CANADA OR TO THE EXTENT TO WHICH PAYMENT BY WAY OF COMPENSATION HAS BEEN MADE UNDER A STATUTE OF THE PARLIAMENT OF CANADA;
 - (B) FOR ANY LOSS TO THE EXTENT THAT COMPENSATION HAS BEEN PAID FOR IT BY ANY OTHER COUNTRY OR FROM ANY OTHER SOURCE;
 - (C) TO THE EXTENT THAT THE CLAIMANT IN THE OPINION OF THE COMMISSION MIGHT REASONABLY HAVE BEEN EXPECTED TO INSURE AGAINST OR MITIGATE THE LOSS.
 - (5) SUBJECT TO THE PROVISIONS OF SECTION SEVEN, THE COMMISSION SHALL NOT, UNDER THIS SECTION, RECOMMEND A PAYMENT OUT OF THE WAR CLAIMS FUND FOR LOSS IN RESPECT OF ANY OF THE FOLLOWING MATTERS:
 - (A) LOSS BY REASON OF DELAY IN OR FAILURE TO RECEIVE PAYMENT, IN WHOLE OR IN PART, OF AN OBLIGATION TO PAY MONEY IN ANY CURRENCY;
 - (B) LOSS RESULTING FROM DAMAGE TO, DESTRUCTION OF OR INABILITY TO RELEASE A SECURITY FOR THE PAYMENT OF AN OBLIGATION TO PAY MONEY INCLUDING SECURITIES BY WAY OF MORTGAGE LIEN OR PLEDGE; OR
 - (C) LOSSES ARISING INDIRECTLY FROM OPERATIONS OF WAR; AND
 - (D) IN PARTICULAR, LOSS IN RESPECT OF THE FOLLOWING MATTERS:
 - (i) DEBTS;
 - (ii) INTEREST OR DIVIDENDS;
 - (iii) EARNINGS BY WAY OF WAGES, SALARIES, COMMISSION FEES OR OTHER PAYMENTS FOR PERSONAL SERVICES,
 - (iv) PENSIONS OR ANNUITIES;
 - (v) RENTALS

- (vi) INSURANCE POLICIES,
- (vii) LOSS OF PROFITS, BUSINESS EARNINGS OR GOODWILL,
- (viii) LOSSES INCURRED BY INSURERS, GUARANTORS OR OTHER PERSONS BY REASON OF AN OBLIGATION TO INDEMNIFY,
- (ix) DEPRECIATION IN THE EXCHANGE VALUE OF CURRENCY,
- (x) TRAVELLING EXPENSES OR CLAIMS FOR UNUSED OR PARTIALLY UNUSED TRAVEL TICKETS,
- (xi) EXPENSES OF FLEEING OR HIDING FROM THE ENEMY,
- (xii) LOSS IN VALUE OF SHARE CAPITAL OF CORPORATIONS
- (xiii) SHIPPING CHARGES, AND
- (xiv) WAR RISK, MARINE OR OTHER INSURANCE PREMIUMS.

- (6) SUBSECTION FIVE IS INCLUDED IN THESE RULES FOR GREATER CERTAINTY BUT SHALL NOT BE CONSIDERED AS IN ANY WAY AFFECTING THE INTERPRETATION OR EXTENDING THE MEANING OF SUBSECTION ONE.

7. NOTWITHSTANDING ANY LIMITATION OR EXCLUSION EXPRESSED IN SECTIONS FIVE OR SIX PAYMENTS OUT OF THE WAR CLAIMS FUND MAY BE RECOMMENDED BY THE COMMISSION IN RESPECT OF ANY DEBT OR CLAIM FOR WHICH COMPENSATION OR SATISFACTION IS PROVIDED UNDER THE TREATY OF PEACE WITH ITALY OR IN ANY AGREEMENT BETWEEN CANADA AND ITALY EXCEPT LOSS IN RESPECT OF THE FOLLOWING MATTERS:

- (A) LOSS IN CONNECTION WITH SECURITIES PAYABLE IN STERLING OR IN UNITED STATES DOLLARS;
- (B) LOSS IN RESPECT OF ANY OBLIGATION TO PAY MONEY INCURRED BEFORE JUNE 10, 1940, THE LIABILITY FOR WHICH IS NOT ADMITTED BY THE ALLEGED OBLIGOR;
- (C) LOSS IN RESPECT OF ANY OBLIGATION TO PAY MONEY INCURRED ON OR AFTER OCTOBER 13, 1945;
- (D) LOSS IN RESPECT OF THE FAILURE TO RECEIVE A PAYMENT OF INTEREST OR RENT OR ANY OTHER PAYMENT UNDER AN OBLIGATION TO MAKE PERIODIC OR CONTINUING PAYMENTS WHERE THE PAYMENT ACCRUED DUE AFTER SEPTEMBER 15, 1947;
- (E) LOSS IN RESPECT OF DAMAGE TO OR DESTRUCTION OF PROPERTY NOT OWNED BY A CANADIAN AT THE TIME OF THE DAMAGE OR DESTRUCTION;
- (F) LOSS INCURRED BY INSURERS, GUARANTORS OR OTHER PERSONS BY REASON OF AN OBLIGATION TO INDEMNIFY;
- (G) LOSS OF PROFITS, RENTALS, BUSINESS EARNINGS OR GOODWILL RESULTING FROM DAMAGE TO OR DESTRUCTION OF PROPERTY; AND
- (H) LOSS SUSTAINED BY A PERSON WHO WAS NOT A CANADIAN ON SEPTEMBER 15, 1947.

8. WHERE A PERSON HAS SUSTAINED LOSS BY REASON OF DAMAGE TO OR THE DESTRUCTION OF PROPERTY SITUATED IN HUNGARY AND ROUMANIA AFTER MAY 8, 1945, AND ON OR BEFORE SEPTEMBER 19, 1947, FOR WHICH, IF IT HAD OCCURRED DURING WORLD WAR II AS DEFINED FOR THE PURPOSE OF THESE RULES HE WOULD HAVE BEEN ELIGIBLE FOR PAYMENT OUT OF THE WAR CLAIMS FUND UNDER SECTION SIX AND THE TREATY OF PEACE WITH HUNGARY OR ROUMANIA MAKES PROVISION FOR A PAYMENT OF COMPENSATION THEREFOR, THE COMMISSIONER MAY RECOMMEND A PAYMENT OUT OF THE WAR CLAIMS FUND IN RESPECT THEREOF AS IF IT HAD OCCURRED DURING WORLD WAR II.

PROCEDURE ON CLAIMS

9. (1) NO CLAIM FOR A PAYMENT OUT OF THE WAR CLAIMS FUND SHALL BE ENTERTAINED BY THE COMMISSION UNLESS IT HAS BEEN FILED BEFORE JUNE 30, 1950, OR SUCH FURTHER TIME AS THE COMMISSION MAY FIX WHERE HE IS SATISFIED THAT THE CLAIMANT CANNOT OR COULD NOT REASONABLY BE EXPECTED TO HAVE FILED THE CLAIM BEFORE THAT DATE.

- (2) WHERE A WAR CLAIM HAS BEEN FILED WITH A DEPARTMENT OR BRANCH OF THE GOVERNMENT OF CANADA BEFORE THE MAKING OF THESE RULES, IT SHALL BE DEEMED TO HAVE BEEN FILED WITH THE COMMISSION AT THE TIME IT WAS FILED WITH THE DEPARTMENT OR BRANCH CONCERNED.

10. THE BURDEN OF PROOF THAT A PAYMENT MAY BE RECOMMENDED TO A PERSON OUT OF THE WAR CLAIM FUND UNDER THESE RULES SHALL REST UPON THAT PERSON.

11. THE COMMISSION MAY PRESCRIBE RULES OF PROCEDURE AS TO THE MANNER IN WHICH CLAIMS MAY BE FILED AND AS TO THE CONDUCT OF ITS INQUIRY.

GENERAL

12. WHERE HIS MAJESTY IN RIGHT OF CANADA HAS MADE A PAYMENT TO A PERSON IN RESPECT OF ANY MATTER FOR WHICH A PAYMENT OUT OF THE WAR CLAIMS FUND MAY BE RECOMMENDED UNDER THESE RULES IN ANTICIPATION OF A PAYMENT BEING MADE IN RESPECT OF THAT MATTER AS A WAR CLAIM, THE COMMISSION MAY RECOMMEND THAT THE WHOLE OR ANY PART OF ANY AMOUNT THAT IT RECOMMENDS BE PAID TO THAT PERSON OUT OF THE WAR CLAIMS FUND BE PAID TO HIS MAJESTY BY WAY OF REIMBURSEMENT.

13. THE COMMISSION SHALL NOT RECOMMEND THAT A PAYMENT BE MADE OUT OF THE WAR CLAIMS FUND IN RESPECT OF

- (A) DISABILITY OR DEATH INCURRED OR OCCURRING IN CANADA AND NOT ATTRIBUTABLE TO OPERATIONS OF WAR IN WORLD WAR II OUTSIDE OF CANADA;
- (B) INTERNMENT OR DETENTION IN CANADA;
- (C) DAMAGE TO OR DESTRUCTION OF PROPERTY IN CANADA; OR
- (D) INTERNMENT, IMPRISONMENT OR DETENTION OUTSIDE OF CANADA IN A TERRITORY NOT THEN OCCUPIED BY THE FORCES OF THE GOVERNMENT OF A BELLIGERENT ENEMY COUNTRY.

14. NOTWITHSTANDING SUB-PARAGRAPH (XII) OF PARAGRAPH (D) OF SUB-SECTION FIVE OF SECTION SIX WHERE A CORPORATION INCORPORATED OUTSIDE OF CANADA IS A CANADIAN FOR THE PURPOSES OF THESE RULES IS ELIGIBLE TO RECEIVE A PAYMENT OUT OF THE WAR CLAIMS FUND IN ACCORDANCE WITH THESE RULES, THE COMMISSION MAY RECOMMEND THAT ANY AMOUNT PAYABLE TO THE CORPORATION BE PAID TO THE CANADIANS WHO ARE SHAREHOLDERS IN THE CORPORATION IN SUCH MANNER AS THE COMMISSION DEEMS FAIR AND REASONABLE IN LIEU OF BEING MADE TO THE CORPORATION.

15. NOTWITHSTANDING SUB-PARAGRAPH (XII) OF PARAGRAPH (B) OF SUB-SECTION FIVE OF SECTION SIX WHERE A CORPORATION INCORPORATED OUTSIDE OF CANADA SUSTAINED LOSS IN RESPECT OF WHICH THE COMMISSION MIGHT RECOMMEND PAYMENT UNDER THESE RULES TO THAT CORPORATION AND THE CORPORATION HAS BEEN DISSOLVED BY OR UNDER THE DIRECTION OF THE GOVERNMENT OF THE COUNTRY IN WHICH IT WAS INCORPORATED, THE COMMISSION MAY, UPON A CLAIM BEING SUBMITTED BY THE CANADIANS WHO WERE SHAREHOLDERS IN THE CORPORATION, RECOMMEND PAYMENT TO THEM OUT OF THE WAR CLAIMS FUND OF THE AMOUNT HE WOULD HAVE RECOMMENDED PURSUANT TO THE PROVISIONS OF SECTION THIRTEEN UPON A CLAIM BY THE CORPORATION HAD IT NOT BEEN DISSOLVED.

16. THE COMMISSIONER MAY BE GUIDED IN HIS RECOMMENDATION FOR PAYMENT IN RESPECT OF LOSS FROM DEATH OR DISABILITY UNDER THESE RULES BY THE ADVICE OF THE CANADIAN PENSION COMMISSION OR OFFICERS OF THE DEPARTMENT OF VETERANS AFFAIRS WITH RESPECT TO WHETHER THE DEATH OR DISABILITY IS ATTRIBUTABLE TO OPERATIONS OF WAR OR THE DEGREE OF ANY DISABILITY.

SCHEDULE "C"

MEMORANDUM

IN ORDER TO ENCOURAGE THE SALE OF SALT CODFISH IN ITALY, THE NEWFOUNDLAND GOVERNMENT, IN 1937, FOUND IT NECESSARY TO PROVIDE SOME MEANS OF ENSURING THAT FUNDS, THE EQUIVALENT OF LIRE DEPOSITED IN RESPECT OF DIRECT SALES OF CODFISH, WOULD BE TRANSMITTED TO THE EXPORTER IN NEWFOUNDLAND WITHIN A REASONABLE PERIOD OF TIME. IT WAS DECIDED THAT THE TRANSFER OF THESE FUNDS TO NEWFOUNDLAND COULD BEST BE ENSURED BY MEANS OF AN INSURANCE SCHEME, UNDER WHICH THE EXPORTERS, UPON PAYMENT OF A PREMIUM OF NOT LESS THAN ONE AND ONE-HALF PER CENTUM OF THE AMOUNT INSURED, WOULD RECEIVE A GUARANTEE FROM THE GOVERNMENT OF NEWFOUNDLAND THAT IF, WITHIN A PERIOD OF TEN MONTHS FROM THE DATE OF SHIPMENT, THE STERLING EQUIVALENT OF THE LIRE CONCERNED HAD NOT BEEN RECEIVED BY THE EXPORTER OR HIS AGENTS, THE NEWFOUNDLAND GOVERNMENT WOULD PROVIDE THE DOLLAR EQUIVALENT OF THE SUMS INVOLVED. ARRANGEMENTS WERE MADE BY THE NEWFOUNDLAND GOVERNMENT TO USE THE MACHINERY OF THE ANGLO-ITALIAN CLEARING OFFICE TO SECURE PAYMENT.

AT THE DATE OF THE OUTBREAK OF HOSTILITIES WITH ITALY, PAYMENT HAD NOT BEEN RECEIVED THROUGH THE ANGLO-ITALIAN CLEARING OFFICE IN RESPECT OF ONE CARGO OF SALT CODFISH WHICH HAD BEEN SHIPPED FROM ST. JOHN'S PRIOR TO THE OUTBREAK OF WAR. THE CARGO CONCERNED WAS MADE UP OF 24,000 QUINTALS (112 LBS.) OF LABRADOR CURED CODFISH AND 20,000 QUINTALS OF SHORE CURED CODFISH IN A TOTAL DECLARED VALUE OF £57,777.4s. THE EQUIVALENT IN LIRE OF THIS SUM WAS DEPOSITED IN THE ANGLO-ITALIAN CLEARING PRIOR TO SHIPMENT AND EVIDENCE OF THIS FACT WAS SECURED BEFORE THE ISSUE OF POLICIES UNDER THE GOVERNMENT'S ITALIAN SHIPMENTS INSURANCE ACT OF 1939. THE STERLING EQUIVALENT OF THE LIRE CONCERNED WAS NOT RECEIVED IN ST. JOHN'S AND, AT THE MATURITY DATE OF THE POLICIES, THIRTY-ONE CLAIMS WERE RECEIVED AND HONOURED BY THE GOVERNMENT OF NEWFOUNDLAND (DETAILS ANNEXED). IT WAS A CONDITION PRECEDENT TO THE ISSUE OF POLICIES UNDER THE ACT THAT, IN THE EVENT OF ANY CLAIM BEING LODGED THEREUNDER, THE CLAIMANT WOULD ASSIGN TO THE COMMISSIONER FOR NATURAL RESOURCES OF NEWFOUNDLAND ALL RIGHT AND TITLE TO THE PROCEEDS OF THE SHIPMENT CONCERNED.

CERTIFIED THAT THE FOREGOING IS A CORRECT STATEMENT OF FACT AND THAT AN AMOUNT OF \$255,952.95, THE EQUIVALENT, AT AN EXCHANGE RATE OF \$4.43 TO THE POUND STERLING, OF £57,777.4s., HAS BEEN ISSUED FROM THE NEWFOUNDLAND EXCHEQUER TO THE EXPORTERS OF THE CODFISH CONCERNED.

DATED AT ST. JOHN'S, NEWFOUNDLAND, THIS 2ND DAY OF DECEMBER,

"W. M. MARSHALL"

SECRETARY FOR FINANCE.