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7, 1957?

No. 50 of 1954.

In the Privy Council.

ON APPEAL
FROM THE COURT OF APPEAL OF SARAWAK, NORTH BORNEO
AND BRUNEI.

BETWEEN
THE CHARTERED BANK OF INDIA, AUSTRALIA
& CHINA (Defendant) *Appellants*
AND
WEE KHENG CHIANG (Plaintiff) *Respondent.*

RECORD OF PROCEEDINGS

LINKLATERS & PAINES,
AUSTIN FRIARS HOUSE,
6 AUSTIN FRIARS,
LONDON, E.C.2,
Appellants' Solicitors.

LAWRANCE, MESSER & CO.,
16 COLEMAN STREET,
LONDON, E.C.2,
Respondent's Solicitors.

In the Privy Council.

ON APPEAL

FROM THE COURT OF APPEAL OF SARAWAK, NORTH BORNEO AND
BRUNEI.

BETWEEN

THE CHARTERED BANK OF INDIA, AUSTRALIA & CHINA *Appellants.*

AND

WEE KHENG CHIANG *Respondent.*

RECORD OF PROCEEDINGS

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In the Privy Council.

ON APPEAL

FROM THE COURT OF APPEAL OF SARAWAK, NORTH BORNEO
AND BRUNEI.

BETWEEN

THE CHARTERED BANK OF INDIA, AUSTRALIA
& CHINA *Appellants*

AND

10 WEE KHENG CHIANG *Respondent.*

RECORD OF PROCEEDINGS

*In the
High Court
at
Kuching.*

No. 1.
PLAINT.

No. 1.
Plaint,
Undated.

IN THE HIGH COURT AT KUCHING.

Plaintiff: WEE KHENG CHIANG,
Mathies Road,
Kuching.

Defendants: THE CHARTERED BANK OF INDIA, AUSTRALIA &
CHINA,
Kuching.

20

For judgment against the Defendants for Payment to the Plaintiff of the sum of \$72,792.44 with interest thereon from 7th March 1950 at 6% per annum and costs.

1. Immediately before the Japanese occupation of Sarawak the Plaintiff was carrying on a banking business called "Bian Chiang Bank" of which he was sole proprietor. The Defendants were then indebted to the Plaintiff in the sum of \$242,641.48 which stood to the credit of an account in the name of the Bian Chiang Bank with the Defendants' branch at Kuching.

*In the
High Court
at
Kuching.*

No. 1.
Plaint,
Undated,
continued.

2. On 10th October 1944 the Yokohama Specie Bank was acting as liquidator of the Plaintiff's said banking business and also of the Defendants' banking business in Kuching.

3. Prior to the 10th October 1944 no part of such sum of \$242,641.48 to the credit of the Plaintiff had been drawn upon by the Plaintiff or any other person.

4. On the said 10th October 1944 the Plaintiff's account with the Yokohama Specie Bank was credited with the sum of \$72,792.44 and the Plaintiff's account with the Defendants was debited accordingly. On the same day the said sum was, together with the other sums standing to the credit of the Plaintiff's account with the Yokohama Specie Bank, credited to an account of the Plaintiff with the Kyoei Bank and the Plaintiff's account with the Yokohama Specie Bank debited accordingly. 10

5. Neither of the transactions mentioned in the preceding paragraph was made either at the request or with the consent of the Plaintiff or any agent of his.

6. The Plaintiff obtained no benefit from the credit of the said sum of \$72,792.44 to his account with the Yokohama Specie Bank and no benefit from the credit of this sum to his account with the Kyoei Bank. No part of the said sum was drawn by the Plaintiff. 20

7. Since the termination of the Japanese occupation the Defendants have repaid to the Plaintiff the sum of \$169,849.04 which, being deducted from said pre-occupation balance of \$242,641.48, leaves a balance of \$72,792.44 of said indebtedness still due by the Defendants to the Plaintiff.

8. The Plaintiff made application to the Defendants for payment of the said sum of \$72,792.44 but on 7th March 1950 the Defendants alleged that this sum had been repaid to the Plaintiff and refuse to make payment to the Plaintiff.

(Sgd.) MARK MORRISON & CO.,

Solicitors for the Plaintiff.

30

No. 2.
PLAINTIFFS' EVIDENCE.
Wee Kheng Chiang.

*In the
High Court
at
Kuching.*

*Plaintiff's
Evidence.*

For Plaintiff : Morrison.

For Defendant : Gould.

Agreed correspondence put in.

No. 2.
Wee
Kheng
Chiang,
2nd July
1952.

WEE KHENG CHIANG, s.s. in English :—

I am a banker and industrialist and landowner living in Mathies Road, Kuching. Chairman of Sarawak Steamship Co. Managing Director of
10 United Chinese Bank, Singapore. Before the war I was the sole proprietor of the Bian Chiang Bank, Kuching. In December 1941 I had a credit balance of \$242,641.48 at the Chartered Bank. Since the war I have received a payment of \$169,849.04 from them. I gave my son authority to sign in 1940. When the Japanese declared war I was in Singapore. I remained there until the liberation. I came to Kuching in October 1945. The Japanese wanted me to return in August 1944. I didn't do so. On my return I repudiated all the transactions done by the Kyoei Bank. I gave my son no authority on my return. I resumed trading on 1/7/46 as the Bian Chiang Bank. The signature on cheque produced is my
20 son's. I left here finally for Singapore in October 1941.

XX : Never given any authority since the war. Returned in October 1945. Left in January 1946. It is my son's signature on document produced Ex. 1. Never revoke the letter of 16/10/40 since.

ReXX : My son-in-law Ong Kee Wee is now my agent here.

Cross-
examina-
tion.

Re-
examina-
tion.

*In the
High Court
at
Kuching.*

No. 3.

Lam Yat Wing.

*Plaintiff's
Evidence.*

No. 3.
Lam Yat
Wing,
2nd July
1952.
Examina-
tion.

LAM YAT WING, s.s. in English :—

I live at 14/16 Palm Road, Kuching. Manager of the Kwong Lee Bank. Before the war I was a clerk. I was then 26. The Japanese sealed the Plaintiff's Bank and ours. The manager of Plaintiff's Bank was Chua Bak Hing. He died during the occupation. The Yokohama Specie Bank acted as liquidators. When the Kyoei Bank started, liquidating ceased, the Yokohama Bank handed over all papers to the Kyoei Bank. That was on 10/10/1944. They handed over the assets 10 of the Plaintiff's Bank. The Yokohama Bank kept the assets of the Plaintiff's Bank. The Yokohama Bank transferred 30% of all Chinese Banks' credits with the Defendants to the Kyoei Bank on 10/10/44. I produce Balance Sheet Ex. 2. On 10/10/44 I was general manager of the Kyoei Bank. They opened that day. I took over Ex. 3 from the Yokohama Bank. It was handed to the Vice-President. The Japanese Liquidating Officer said a cheque must be signed to cover the transfer. Our Vice-President signed it on behalf of Kwong Lee Bank. The signature on cheque is that of Wee Hian Teck who was appointed manager of the Kyoei Bank. The credit in our Bank was a mere book entry. 20

Bank Order of 1944 produced. Held to be inadmissible. I produce balance sheet Ex. 4. Plaintiff's balance remained with the Yokohama Bank. Shortly before the Allies returned we were ordered to take our cash deposit from the Yokohama Bank including Plaintiff's deposit. K. B. received it in Japanese currency, which was then worthless. It was then about September 1945. K. L. B. resumed trading in 1946. I have been threatened by the Japanese authorities with punishment for no-co-operation.

Cross-
examina-
tion.

XX : During the occupation the Defendant's Bank was under a liquidator, the Yokohama Bank. So were the Plaintiff's Bank and 30 Kwong Lee Bank. The Chinese Banks were treated as enemy banks up to 10/10/44. The Kyoei Bank purported to be an amalgamation of the Plaintiff's Bank, Kwong Lee Bank and Wah Tat Bank, and other persons. It was possible for creditors of the Plaintiff's Bank to draw on their credits when same had been taken over by the Kyoei Bank. They could operate as an ordinary current account. Some of the drawings from the Yokohama Bank by the Kyoei Bank were for customers who had had balances with the Plaintiff's Bank which had been transferred.

Re-
examina-
tion.

ReXX. : The Japanese controlled all banking business.

The Court adjourned.

40

No. 4.
Wee Hian Teck.

*In the
High Court
at
Kuching.*

WEE HIAN TECK, s.s. in English :—

*Plaintiff's
Evidence.*

Son of Plaintiff. Merchant carrying on business under the name of Tiong Kheng & Co., 4 Gambier Road, in partnership with my brother-in-law. Live in Mathies Road with Plaintiff. In 1941 I was working in the Plaintiff's Bank. I was insurance clerk. I had authority to sign cheques. I was here when the Japanese came. After they arrived I never went to the office. The Bank was sealed and later opened under
10 the Yokohama Bank. I didn't work in it. The Kyoei Bank was formed in October 10th 1944. I was appointed manager. I didn't ask to be. I was paid a salary. I signed the cheque \$72,792.44. Mr. Lim Thian Liang asked me to do so. He was the cashier in the Kyoei Bank. He said a Military Officer wanted me to do so. I signed because I had to. I had no account. This was the only cheque I signed. Had had no communication from Plaintiff since December 1941.

—
No. 4.
Wee Hian
Teck,
3rd July
1952.
Examina-
tion.

XX : Liang was the cashier in the Kyoei Bank. He had originally been cashier in Plaintiff's Bank. He told me the Military wanted my signature. He filled in the cheque. He told me the amount represented
20 30% of a sum of money to be transferred from the Yokohama Bank to the Kyoei Bank. He said it was the Bian Chiang Bank balance with the Chartered. He explained it all at the time. He first said the Japanese wanted it done. I knew that the Kyoei Bank was to be an amalgamation of the 3 Chinese Banks. I didn't know that customers of the 3 Banks would have their accounts transferred. I was there just under a year. I attended every day. I didn't notice any of our old customers come in or if they had accounts with the Kyoei. Nobody ever told me. I was suffering from shell shock.

Cross-
examina-
tion.

Re-XX : I never heard what the Military Officer said. Liang just
30 said they wanted a cheque signed. I can't remember whether he said they wanted my signature. He did say they wanted it immediately.

Re-
examina-
tion.

*In the
High Court
at
Kuching.*

**No. 5.
Ong Kee Hui.**

*Plaintiff's
Evidence.*

ONG KEE HUI, s.s. in English :—

No. 5.
Ong Kee
Hui,
3rd July
1952.
Examina-
tion.

Son-in-law of Plaintiff and live at his house in Mathies Road. Since the end of the war I have acted as his agent in Kuching. I was here during the occupation. Plaintiff was declared an enemy. His assets were appropriated. My brother-in-law attended the Kyoei Bank for the first time on 10/10/44. Plaintiff's Bank resumed trading on 1/7/46. I produce books of Yokohama Bank, Ex. 5. I had nothing to do with the signing of the cheque. The money was transferred into the joint names of Plaintiff's Bank and the Kwong Lee Bank. The Bank's customers could draw on this money, but not Plaintiff himself. The Banks themselves could not interfere in the organisation. I cannot see how Plaintiff obtained any benefit from this transaction. 10

By the
Court.

By the Court : During the period of the Kyoei Bank about \$632,000 was drawn out and customers' accounts debited postwar and about \$578,000 was paid in and customers' accounts credited.

Cross-
examina-
tion.

XX. : Only non-enemy subjects were allowed to draw money. \$632,315.90 was drawn out and \$578,273.48 was paid in.

No. 6.
Lim Thian
Liang,
3rd July
1952.
Examina-
tion.

**No. 6.
Lim Thian Liang.**

20

LIM THIAN LIANG :

Cashier in Plaintiff's Bank. I live at 43, Wayang Street. I was cashier before the war. After the war I worked in the Yokohama Bank as Liquidator clerk. Later I had a position in the Kyoei Bank. I was there on 10/10/44. I was a clerk only in the Yokohama Bank. I was cashier at Kyoei. A Japanese Military Officer came along on 10/10/44. The Vice President of the Kyoei told me to make out this cheque being 30% of our balance at Chartered Bank. He told me the Military had ordered him to make it out. I asked Teck to sign it and he did so. I then sent it along to the Yokohama Bank. I got him to sign it because I wanted him to take the blame. In the result a credit was opened in the Kyoei Bank in Plaintiff's Bank's name. 30

Cross-
examina-
tion.

XX. : My duty was just to pay out and receive in money.

No. 7.

Lim Seong Khan.

*In the
High Court
at
Kuching.*

LIM SEONG KHAN, s.s. in Hokkien :—

*Plaintiff's
Evidence.*

Managing director of Kwong Lee Bank. I live at 7 Bishopsgate Street. I was managing director before the war. I became employed in the Yokohama Bank in the liquidation. I became Vice President of the Kyoei Bank. The Japanese brought the balance sheet on 10/10/44. The Japanese Officer said all the assets of the Chinese Banks must be handed to the Kyoei Bank. They ordered cheques for 30% of the money in the liquidation account to be made out and the money transferred to Kyoei. I produce Paying-in Book Ex. 6.

No. 7.
Lim
Seong
Khan,
3rd July
1952.
Examina-
tion.

XX.: Other people besides the Banks drew money from the Yokohama Bank. I don't know when.

Cross-
examina-
tion.

Re Xd.: I have heard people say so.

Re-
examina-
tion.

No. 8.

Lam Yat Wing (re-called).

No. 8.
Lam Yat
Wing,
3rd July
1952.
(re-called).
Re-
examina-
tion.

LAM YAT WING (re-called) :

I received Ex. 6 on 10/10/44 at the Kyoei Bank.

Close of Case.

No. 9.

ADDRESS TO COURT by Plaintiff's Counsel.

No. 9.
Address
to Court
by
Plaintiff's
Counsel,
3rd July
1952.

20

1943 A.C. 203.

Morrison : Agency determined.

The Court adjourned.

Section 7 (2) Ordinance 18/1949.

Customer can prove one of two things. In this case he has proved both. Control of Account at Kyoei taken out of his hands. 7 (3) (b) cannot apply as transfer was not by consent.

*In the
High Court
at
Kuching.*

No. 10.

ADDRESS TO COURT by Defendant's Counsel.

No. 10.
Address to
Court by
Defendant's
Counsel
3rd July
1952.

Gould : Plaintiff must bring himself within 3, 4 or 7 if he is to succeed. As to Section 3, the 70% was paid in 1946. 2 (2) intended to continue the agency which under the 1943 case might be revoked. [1951] 2 All E.R. 567. Agency still existed. Son signed because asked to do so. No evidence of threats. Yokohama Bank acting as liquidator of Chartered Bank and transferred 30% to liquidator of Bian Chiang Bank. If agency exists payment is made under 4 (1). 4 (2) no payment in occupation currency. 7 (2) this was not a payment by a Bank but by a liquidator. 7 (3) intended 10 to repay to Chinese Banker and Customer. In any event Plaintiff has failed to prove either of the conditions.

Morrison : Facts here different from those in [1951] 2 All E.R.

Judgment reserved.

(Sgd.) M. R. F. ROGERS,
Judge.

No. 11.
Judgment,
5th July
1952.

No. 11.

JUDGMENT.

IN THE HIGH COURT AT KUCHING.

Judgment of FLETCHER ROGERS J.

20

The Plaintiff in this case as manager of the Bian Chiang Bank on the 16th October 1940 sent a letter to the agent of the Chartered Bank informing him that in future Mr. Wee Hian Teck would also have authority beside Mr. Lim Thian Liang to sign all cheques drawn on the Chartered Bank on his behalf. The Plaintiff thereafter spent most of his time travelling backwards and forwards to Singapore, and at the time of the Japanese occupation of Sarawak, which I am informed took place on 23rd December 1941, he was then in Singapore. There he remained at liberty until the Japanese marched into Singapore on 15th February 1942, after which date he remained subject to Japanese control until the end of the war in the late 30 summer of 1945. Meanwhile the balance of his account at the Chartered Bank which amounted to \$242,641.48 had been taken over together with other assets by the Yokohama Specie Bank in the capacity of liquidator. It appears that the assets in the hands of the liquidator remained untouched until October 1944. On the 10th of the month the Kyoei Bank was brought into being and to this Bank were transferred 30% of the assets of the Chinese Banks which were in the care of the liquidator. This amounted in

*In the
High Court
at
Kuching.*
—
No. 11.
Judgment,
5th July
1952,
continued.

the case of the present Plaintiff to the sum of \$72,792.44. For this amount a cheque was signed by Mr. Wee Hian Teck drawn on the Chartered Bank and paid by the liquidator of the bank. From that day onwards the Kyoei Bank continued trading and the customers of the Plaintiff's bank were enabled to use the Kyoei Bank for continuation of their banking business. This state of affairs continued until the end of the war. After the war was over and the Chartered Bank re-established in Kuching the balance of \$169,849.04 being 70% of the Plaintiff's pre-occupation balance was repaid to him. He now brings this action to recover the 30% to which

10 he says he is entitled. In order to succeed he has to bring his claim under the Debtor & Creditor (Occupation Period) Ordinance No. 18 of 1946, to which I will refer hereafter as the Ordinance. He alleges in the first place that the agency and authority of Mr. Wee Hian Teck which was prolonged by Section 2 subsection 2 of the Ordinance from 23rd December 1941 automatically came to an end when the Plaintiff himself fell into Japanese hands on 15th February 1942. Thereafter he maintains that all agency had ceased. I do not consider it necessary to consider the situation which arises from the operation of section 2 subsection 2 because I have had cited to me the case of *Hangkam Kwintong v. Liu Lan Fong* [1951] 2 All E.R. 567

20 in which it was held by the Privy Council that the power of attorney given by one man to another in pre-war days was not to be regarded as abrogated because the parties were temporarily divided by the line of war. Moreover this was a matter entirely outside the operation of the Ordinance. It is a question of what is the Common Law of the territory when that territory is in enemy occupation. Neither Wee Hian Teck nor his father became enemies just because the one fell into Japanese hands in Sarawak and the other in Singapore some 2 months later. Therefore no question of trading with the enemy arose. Following this decision I therefore hold that Wee Hian Teck remained the agent of his father throughout the occupation

30 years and that it was in that capacity that he signed the cheque on 10/10/44.

It remains to consider to what extent this transaction is affected by the Ordinance. Quite clearly section 3 has no application, as the pre-occupation debt of \$242,641.48 did not remain wholly unpaid at the commencement of the Ordinance. The amount of \$72,792.44 was paid by the liquidator bank to the credit of the Plaintiff's bank in the newly constituted Kyoei Bank, and it was paid on the authority of the cheque. This state of affairs seems to me to bring the matter under section 4 (1) and to make the payment into a valid discharge within the meaning of

40 that subsection. Nor can I find any duress. Mr. Lim Thian Liang, who also had authority to sign, has given evidence and according to him, he declined to accept the responsibility. There was no duress in that respect, as there could have been no question of responsibility if there had been. The responsibility of signing I hold was voluntarily undertaken by Mr. Wee Hian Teck. Further it is clear that the subsection 2 of the section does not cover the transaction and so no question of revaluation arises. Moreover there was no payment in occupation currency. Lastly I am invited to consider whether Section 7 of the Ordinance has any bearing on

50 the matter. Subsection 1 speaks of a transfer by a customer to another account of his own in the same Bank which was not the case on this occasion. Subsection 2 speaks of a payment by a Bank to a Custodian or

*In the
High Court
at
Kuching.*

No. 11.
Judgment,
5th July
1952,
continued.

Liquidation Officer, which again was not the case here as the payment was made not by a Bank but by a Liquidation Officer who had taken over the Bank's business. This subsection also cannot apply, which makes it unnecessary for me to decide whether the provisions of subsection 3 are complied with or not. It does not appear, in any case, that the Plaintiff has adequately proved either of the facts which this subsection enjoins.

For all the above reasons I find that this action must fail, and I give judgment to Defendants with costs. I award costs at the figure of \$1,500/-.

(Sgd.) M. R. F. ROGERS, 10
Judge.

Kuching, 5th July 1952.

No. 12.
Motion for
Leave to
Appeal,
17th July
1952.

No. 12.
MOTION for Leave to Appeal.

IN THE HIGH COURT OF SARAWAK, NORTH BORNEO AND
BRUNEI at Kuching.

The Plaintiff-Appellant being dissatisfied with the Judgment of the High Court delivered on the 5th July, 1952, craves leave to appeal under the Court of Appeal Rules 1952, Rule 9, to appeal to the Supreme Court of Sarawak, North Borneo and Brunei. 20

Dated this 17th day of July, 1952.

WEE KHENG CHIANG by his Attorney

(Sgd.) ONG KEE HUI,
Appellant.

No. 13.
Order
granting
Final
Leave to
Appeal,
1st August
1952.

No. 13.
ORDER granting Final Leave to Appeal.

Final Leave to Appeal unconditional.

(Sgd.) M. R. F. ROGERS,
Judge, 1.8.52.

No. 14.

COURT NOTES on Opening of Appeal.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

IN THE COURT OF APPEAL OF SARAWAK, NORTH BORNEO
AND BRUNEI (holden at Kuching).

WEE KHENG CHIANG . . . Plaintiff-Appellant

Versus

THE CHARTERED BANK OF INDIA,
AUSTRALIA & CHINA . . . Defendants-Respondents.

No. 14.
Court
Notes on
opening of
Appeal,
21st
January
1953.

Civil Appeal Case No. C.A. 21/52.

10 21st January, 1953.

Seth and Dunbar for Appellant.

Gould for Respondent.

Seth : I press for the affidavits to be included in the consideration of
this appeal.

Gould : I object : I took a note of the proceedings and it substantially
agrees with His Lordship's note.

Order : We express no opinion on the merits of the affidavits but we
consider that justice demands that there should be before the Court a
record which all agree correctly reflects the evidence. We therefore decide
20 to "rehear the whole case." See Section 30 of the Court of Appeal Rules
1951. The procedure which follows is adopted by agreement.

(Sgd.) L. D. SMITH.

No. 15.

Wee Kheng Chiang.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

Appellant's evidence as recorded by Smith, Ag. C.J.

WEE KHENG CHIANG sworn states in English :

*Appellant's
Evidence
recorded by
Smith,
Actg. C.J.*

No. 15.
Wee Kheng
Chiang
21st
January
1953.
Examina-
tion.
(Witness
absent.
Evidence
as recorded
by Trial
Judge and
amplified
by affidavit
of 17th July
1952.
Admitted
by consent.)

I am a banker and industrialist and landowner living in Mathies Road, Kuching. Chairman of Sarawak Steamship Company, Managing Director of United Chinese Bank, Singapore. Before the war I was the sole proprietor of the Bian Chiang Bank, Kuching. In December 1941 I had a credit balance of \$242,641.48 at the Chartered Bank. Since the war I have received a payment of \$169,849.04 from them. I gave my son 10 authority to sign in 1940. When the Japanese declared war I was in Singapore. I remained there until the liberation. I came to Kuching in October 1945. The Japanese wanted me to return in August 1944. I didn't do so. On my return I repudiated all the transactions done by the Kyoei Bank. I gave my son no authority on my return. I resumed trading on 1/7/46 as the Bian Chiang Bank. The signature on the cheque produced is my son's. I left here finally for Singapore in October 1941. Before the Japanese invaded Sarawak I was Chairman of the China Relief Fund and head of most anti-Japanese associations in Kuching. When the Johore causeway was blown up, just before the invasion of 20 Singapore by the Japanese, I left Singapore and sought refuge in the Dutch island of Moro. Soon after the fall of Singapore, I was arrested by the Japanese and taken back to Singapore from Moro Island. I was subsequently released. After my release I went to stay in the Karimon Island. In about August 1944 I was ordered to go to Singapore by the Japanese. When in Singapore I was required to see one Kakusan High-ranking 30 military officer from Sarawak, who advised me that I was required by the Japanese in Sarawak, that if I came to Sarawak I would cease to be regarded as an enemy by the Japanese military and that I was required to assist the Japanese military. The said Kakusan handed me a letter from my son-in-law Ong Kee Hui which was so worded with hidden meaning that I feared returning to Sarawak. I obtained a medical certificate from Dr. Smith of Singapore and sought protection from one Shinozaki, a Japanese Welfare officer in Singapore and by such means was able to remain in the vicinity of Singapore against the wishes of the said Kakusan.

Cross-
examina-
tion.

XX. : Never given any authority since the war. Returned in October 1945. Left in January 1946. It is my son's signature on document produced. Never revoked the letter of 16/10/40 since.

Re-
examina-
tion.

Re-Xd. : My son-in-law Ong Kee Hui is now my agent here.

40

No. 16.
Ong Kee Hui.

ONG KEE HUI sworn states in English :

Son-in-law of Plaintiff and live at his house in Mathies Road. Since the end of the war I have acted as his agent in Kuching. I was here during the occupation. Plaintiff was declared an enemy. His assets were appropriated. My brother-in-law Wee Hian Teck attended the Kyoei Bank for the first time on 10/10/44. The Plaintiff's Bank resumed trading on 1/7/46. I produce books of Yokohama Bank Ex. 5. I had nothing to do with the signing of the cheque. The Banks themselves could not interfere in the organisation. I cannot see how Plaintiff obtained any benefit from this transfer. The money represented by the cheque together with other sums collected by the liquidator of the Bian Chiang Bank was transferred to an account of the Kyoei Bank with the Yokohama Specie Bank. The books of the Yokohama Specie Bank, apart from the Cash Book, are not available so far as I know. The total amount (\$346,178.91) was transferred to the account of the Kyoei Bank and Yokohama Specie Bank. The \$273,386.47 represented the amount collected by the liquidators of the Bian Chiang Bank up to 5/10/44.

20 Ex. 3 is the Balance Sheet of the Bian Chiang Bank with its liquidator ; \$273,386.47 is the aggregate of collections ; \$72,792.44 is the credit from Chartered Bank. That was up to 9/10/44. The collections I refer to were money collected by the liquidator from customers who owed money to the Bank (Bian Chiang Bank). The liquidator did not do business—they did not pay out money.

Ex. 4 is the balance of the Kyoei Bank—the first one—when it first opened its doors. \$877,156.65 is the amount held by the Kyoei Bank in cash with the Yokohama Specie Bank and includes the Bian Chiang Bank credit of \$346,178.91.

30 On liabilities side \$157,000 represents the value of an allotment of shares to Bian Chiang Bank in Kyoei Bank.

\$238,452.13 represents the excess of assets over liabilities after the allotment of shares.

These two balance sheets are the consolidated balance sheets of the Bian Chiang Bank, Kwong Lee Bank and Wah Tat Bank.

The customers of the Bian Chiang Bank could withdraw, after complying with certain formalities. The Plaintiff could not draw because he was regarded as an enemy because of his activities as Chairman of the China Relief Fund. Wee Kheng Chiang's house was taken, his ships, 40 his bank sealed. The organisation of the Kyoei Bank was in the hands of the Japanese. Wee Hian Teck worked for the Kyoei Bank and represented Bian Chiang Bank. From the records of the Bian Chiang Bank I cannot see how any benefit accrued to Wee Kheng Chiang from this credit from the Chartered Bank. I studied the books.

A Japanese official came to me some time before the formation of the Kyoei Bank and said that the Japanese wanted Wee Kheng Chiang to

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*
—
*Appellant's
Evidence
recorded by
Smith,
Actg. C.J.*
—
No. 16.
Ong Kee
Hui, 21st
January
1953.
Examina-
tion.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

*Appellant's
Evidence
recorded by
Smith,
Actg. C.J.*

*No. 16.
Ong Kee
Hui, 21st
January
1953,
Examina-
tion,
continued.*

*By the
Court.*

*Cross-
examin-
tion.*

co-operate with them. They offered to pardon him if he returned to Kuching. I interviewed the head of the Kempetai who assured me that the matter rested with the C.-in-C. If he agreed—all would be well. Kempetai were Jap military police. I was told to write to Wee Kheng Chiang and explain what had happened. The interview with the Kempetai and so on. I did write, but I wrote indicating a concealed meaning i.e. I implied it would be better for him not to return. During the war I lived with my grandfather, Ong Tiang Swee, head of the Chinese community. I know how the Kyoei Bank was formed. The Chinese Banks did not voluntarily come into the scheme of the Kyoei Bank. If a person 10 disobeyed a Japanese order, either the Jap official would deal with him or he would report to the Kempetai. They were noted for severity and harsh treatment—six public executions. I witnessed them. Kempetai compelled respect for their orders.

XXd. by Court : During the period of the Kyoei Bank about \$632,000 was drawn out and customers accounts debited postwar and about \$578,000 was paid in and customers' accounts credited.

XXd. : Only non-enemy subjects were allowed to draw money. \$632,315.90 drawn out and \$578,273.48 paid in. The 30% credit can be traced from the books of the liquidator of the Chartered Bank to the 20 liquidator of the Bian Chiang Bank, then to the Kyoei Bank, then to Yokohama Specie Bank. Customers' accounts of Bian Chiang Bank could be transferred to the Kyoei Bank if customers complied with the ordinary business regulations. Many customers did transfer their accounts and carried on business. Paid money and drew money out. If cash were required it would be drawn from the Yokohama Specie Bank (i.e. from the \$877,156.65) by the Kyoei Bank. (Ex. 4) \$632,315.90 was drawn out and \$587,273.48 was paid in. That was the overall position. It is possible that on any particular day withdrawals by former customers of the Bian Chiang Bank might have exceeded deposits. It is possible that they 30 withdrew more than \$346,178.91. Theoretically it is possible that the complete credit was exhausted on any particular day.

Former customers of the Bian Chiang Bank would be debited with what they withdrew from the Kyoei Bank and Wee Kheng Chiang would to that extent be relieved of his liability to those customers. The operations of the Kyoei Bank were in one sense a benefit, but the converse holds true i.e. as regards the sum of \$273,386.47 collected by the liquidator. From my study of the position from the books, I do not think there was a benefit. I cannot say whether the Kyoei Bank collected more money from the Bian Chiang Bank debtors than they paid out to them, i.e. the creditors. 40 The Kyoei Bank kept a suspense account \$234,452 to meet any deficiency in meeting the obligation of the Bian Chiang Bank. This is the balance sheet at the opening of the Kyoei Bank—it is the only balance sheet available. Wee Kheng Chiang was nominated by the Japs as President of Kyoei Bank. On the face of it the Japs appeared friendly.

From about August 1944 anybody who was not regarded as an enemy and who had a pre-war balance with the Chartered Bank could go and draw 30% of it from the liquidator (Yokohama Specie Bank). Any anti-Japanese and obvious Englishmen were regarded as enemies.

Wee Kheng Chiang could have drawn on his account if he had been regarded as a non-enemy.

Re-Xd. : Wee Kheng Chiang was the most prominent member of the Chinese community—that is why they wanted him back—to give moral support to the Kyoei Bank.

Further Xd. by Court : After the war the assets of the Kyoei Bank were valueless—a million dollars Japanese money. The Chinese banks had to start again with a clean sheet—under Debtor & Creditor Ordinance. I can't really say whether Wee Kheng Chiang would have elected to go on
10 banking after 10/10/1944.

In the Court of Appeal of Sarawak, North Borneo and Brunei.

Appellant's Evidence recorded by Smith, Actg. C.J.

No. 17.

Lim Thian Liang.

LIM THIAN LIANG sworn states in English :

Cashier in Plaintiff's Bank. I live at 43 Wayang Street. I was cashier before the war. After the war I worked in the Yokohama Bank as liquidator. Later I had a position in the Kyoei Bank. I was there on 10/10/44. I was a clerk only in the Yokohama Bank. I was cashier at Kyoei. A Japanese military officer came along on 10/10/44. The Vice-President of the Kyoei told me to make out this cheque, being 30%
20 of our balance at the Chartered Bank. He told me the military had ordered him to make it out. I asked Teck to sign it, and he did so. I then sent it along to the Yokohama Bank. I got him to sign it because I wanted him to take the blame. In the result a credit was opened in the Kyoei Bank in Plaintiff's Bank's name.

No. 16.
Ong Kee Hui, 21st January 1953, *continued.* Re-examination. By the Court.

No. 17.
Lim Thian Liang, 21st January 1953. Examination.

It was necessary to obey a Japanese order—the Kempetai would have locked us up otherwise. I had authority to sign cheques for Bian Chiang Bank on its account with the Chartered Bank. During the occupation I had received no authority from Wee Kheng Chiang to sign so I asked Wee Kheng Chiang's son to sign, i.e., Wee Hian Teck. Conditions had
30 changed—I did not think I had authority to sign.

XXd. : My duty was just to pay out and receive in money. I had received no additional authority from Wee Kheng Chiang. I thought it would be safer if Wee Kheng Chiang's son signed. I made out the cheque. I did not actually hear the conversation between the Vice-President (Lim Seong Khan) and the Japanese military officer. He came to the Kyoei office.

Cross-examination.

Not Re-Xd.

XXd. by Court : There was no specific threat with regard to the cheque, but everyone knew that it was the wise thing to do to carry out the
40 Japanese suggestions promptly. I understood that there was an order that everyone who had a credit with the Chartered Bank should draw 30% of it from the Yokohama Specie Bank or perhaps it was a notice notifying depositors that they could withdraw 30%.

By the Court.

The Bank Order is admitted by consent as Ex. 7.

No. 18.

Lim Seong Khan.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

*Appellant's
Evidence
recorded by
Smith,
Actg. C.J.*

No. 18.
Lim Seong
Khan,
21st
January
1953.
Examina-
tion.

Cross-
examina-
tion.

Re-
examina-
tion.

Further
Cross-
examina-
tion.

By the
Court.

LIM SEONG KHAN sworn states in Hokkien :

Managing Director of Kwong Lee Bank. I live at 7 Bishopsgate Street. I was Managing Director before the war. I became employed in the Yokohama Bank in the liquidation. I became Vice-President of the Kyoei Bank. The Japanese brought the balance sheet on 10/10/44. The Japanese officer said all the assets of the Chinese Banks must be handed to the Kyoei Bank. They ordered cheques for 30% of the money in the liquidation account to be made out and the money transferred to 10 Kyoei. I produce paying-in book Ex. 6.

The Japanese said it was compulsory to transfer the assets to the Kyoei Bank because the Kwong Lee Bank was regarded as an enemy. We were asked to prepare cheques, and when we were asked to do something we had to do it. I was shut up for a month 3/6/44 to 2/7/44 because I had been Treasurer of the China Relief Fund. During that month I was beaten. When I was told to make out the cheque (Kwong Lee cheque) I did so "within the hour." I made out the cheque before 10 o'clock (when the Yokohama Specie Bank opened). I was afraid I would be arrested if I did not make out the cheque. 20

XXd : Other people besides the Banks drew money from the Yokohama Bank. I don't know when. I have heard people say so.

Lam Yat Wing was present at the Kyoei Bank when the Japanese official came and handed me the balance sheets of the Kwong Lee Bank. I couldn't understand them—Lam Yat Wing interpreted them. Lam Yat Wing told me that the Japanese wanted this money transferred. Lam Yat Wing acted as interpreter. He also told me later on. I told Lim Thian Liang to make out the cheque. I was told that all the collections plus 30% of credit would be paid over to the Kyoei Bank.

Re-Xd : The Japanese insisted on a Kwong Lee man being Vice 30 President of the Kyoei Bank. The Japanese chief at the Treasury asked me to invite all the Chinese Banks to form a common bank. I told him that my bank was wound up by the Japanese and that none would trust me. He then invited the bazaar people. There was a meeting between the bazaar people and the bankers. I was present. The object was to discuss the formation of a common bank. I did not speak at that meeting. I had no views as my bank had been closed down. A Japanese presided at that meeting. I never protested about the formation of the Kyoei Bank.

Further Xd : I knew the Kwong Lee Bank would have a share 40 in the Kyoei Bank.

Xd. by Court : I was not pleased that 30% was released from the Chartered Bank. We were not in a position to make any decision ; therefore I cannot say whether I wanted the credit released. (Witness appears to evade the issue or not to understand.)

No. 19.

Lam Yat Wing.

LAM YAT WING sworn states in English :

I live at 14/16 Palm Road, Kuching. Manager of the Kwong Lee Bank. Before the war I was a clerk. I was then 26. Japanese sealed Plaintiff's Bank and ours. The Manager of Plaintiff's Bank was Chua Bak Hing. He died during the occupation. The Yokohama Specie Bank acted as liquidators. When the Kyoei Bank started liquidating ceased, the Yokohama Bank handed over all papers to the Kyoei Bank. That
 10 was on 10/10/44. They handed over the assets of the Plaintiff's Bank. The Yokohama Specie Bank kept the assets of the Defendants' Bank. The Yokohama Bank transferred 30% of all Chinese banks credits with the Defendants to the Kyoei Bank on 10/10/44. I produce Balance sheet Ex. 2. On 10/10/44 I was General Manager of the Kyoei Bank. They opened that day. I took over Ex. 3 from the Yokohama Bank. It was handed to the Vice President. The Japanese liquidating officer said a cheque must be signed to cover the transfer. Our Vice President signed it on behalf of Kwong Lee Bank. The signature on cheque was that of Wee Hian Teck, who was appointed Manager of the Kyoei Bank. The
 20 credit in our bank was a mere book entry.

I produce balance sheet Ex. 4. Plaintiff's balance remained with the Yokohama Bank. Shortly before the Allies returned we were ordered to take our cash deposit. We received it in Japanese currency which was then worthless. It was then about September 1945. We resumed trading in 1946. I have been threatened by the Japanese authorities with punishment for non-co-operation in 1942. Ex. 3 was brought to the Kyoei Bank from the Yokohama Specie Bank by a Japanese official before the ceremonial opening of the Kyoei Bank on 10/10/44. Heard Japanese official order Vice-President to send cheque to Yokohama Specie Bank.

30 Shortly before the Allies returned the Kyoei Bank was ordered to retrieve our deposit in the Yokohama Specie Bank, including Plaintiff's deposit. I do not know if Bian Chiang Bank had a deposit with Yokohama Specie Bank.

In 1942 I was threatened by the Japanese for non-co-operation.

Before the formation of the Kyoei Bank a Jap officer sent for me many times. He wanted information about the banks and banking practice. A balance sheet was drawn up—see Exs. 1 and 2. The Japanese decided the make-up of the balance sheets. I supplied the information at their request. The liquidator (Yokohama Specie Bank) required the
 40 cheque as a voucher to support the transfer of 30% of the Chartered Bank credit—similarly with the cheque for \$58,841.86—30% of the Kwong Lee Bank's credit. Before the Kyoei Bank was opened the Japanese officer showed me the Bank Order in Japanese. He explained it to me. This is the English translation. S. 22 and S. 23 set out certain penalties.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

*Appellant's
Evidence
recorded by
Smith,
Actg. C.J.*

No. 19.
Lam Yat
Wing, 21st
January
1953.
Examina-
tion.

(this is
Exhibit 7.)

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

*Appellant's
Evidence
recorded by
Smith,
Actg. C.J.*

*No. 19.
Lam Yat
Wing, 21st
January
1953.
Examina-
tion,
continued.*

*Cross-
examina-
tion.*

*Re-
examina-
tion.*

*By the
Court.*

If Wee Hian Teck had refused to sign that cheque he might have been arrested for disobedience.

XXd. : During the occupation the Defendants' bank was under a liquidator, the Yokohama Bank. So were Plaintiff's bank and Kwong Lee Bank. The Chinese banks were treated as enemy banks up till 10/10/44. The Kyoei Bank purported to be an amalgamation of Plaintiff's Bank, Kwong Lee Bank and Wah Tat Bank and other banks. It was possible for creditors of the Plaintiff's bank to draw on their credits when same had been taken over by the Kyoei Bank. They could operate as an ordinary current account. Some of the drawing from the Yokohama Bank by the Kyoei Bank was for customers who had had balances with the Plaintiff's bank which had been transferred. 10

Discussions about forming the Kyoei Bank had been going on for a few months. I don't know why these discussions were started. I attended the meetings. I knew that the shareholders in the Kwong Lee Bank would become shareholders in the Kyoei Bank. I did not protest. The Kyoei Bank was never wound up methodically.

If X wanted to draw \$20,000 at 9 a.m. on 11/10/44 the Kyoei Bank would have had to draw on its funds from the Yokohama Specie Bank. There were in fact considerable withdrawals from the Yokohama Specie Bank to meet demands on the Kyoei Bank. 20

Re-Xd. : The Japanese controlled all banking business.

Xd. by Court : The whole organisation was in the hands of the Japanese—I have more confidence in Chinese methods than in Japanese methods.

No. 20.
Wee Hian Teck.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

*Appellant's
Evidence
recorded by
Smith,
Actg. C.J.*

No. 20.
Wee Hian
Teck, 21st
January
1953.
Examina-
tion.

WEE HIAN TECK sworn states in English :

Son of Plaintiff. Merchant carrying on business under the name of Tiong Kheng & Co., 4, Gambier Road, in partnership with my brother-in-law. Live in Mathies Road with Plaintiff. In 1941 I was working in the Plaintiff's Bank. I was insurance clerk. I had authority to sign cheques. I was here when the Japanese came. After they arrived I never went to the office. The Bank was sealed and later opened under
10 the Yokohama Bank. I did not work in it. Later the Kyoei Bank was formed on October 10th 1944. I was appointed Manager. I did not ask to be. I was paid a salary. I signed the cheque \$72,792.44. Mr. Lim Thian Liang asked me to do so. He was cashier in the Kyoei Bank. He said a military officer wanted me to do so. I signed because I had to. I had no account. This was the only cheque I signed. Had had no communication from the Plaintiff since December 1941.

Even if the cheque had been for a much larger amount I should have had to sign. I could not refuse. Refusal would have been punished. I did say I would have signed a cheque for \$1,000,000 if I had been asked
20 to sign. I know nothing about banking. The Japs appointed me Manager of Kyoei Bank. Lam Yat Wing did the work. The Kempetai sent for me during the occupation to make enquiries about my father. I know they regarded him as an enemy. One had to obey or be punished.

X.Xd. : Liang was the cashier in the Kyoei Bank. He had originally been cashier in Plaintiff's Bank. He told me the military wanted my signature. He filled in cheque. He told me the amount represented 30% of the sum of money to be transferred from the Yokohama Bank to the Kyoei Bank. He said it was the Bian Chiang balance with the Chartered. He explained it all at the time. He said first the Japanese
30 wanted it done. I knew that the Kyoei Bank was to be an amalgamation of the three Chinese Banks. I did not know that customers of the 3 Chinese banks would have their accounts transferred. I was there just under a year. I attended every day. I did not notice any of our old customers come in, or if they had accounts with the Kyoei. Nobody ever told me. I was suffering from shell shock.

Cross-
examina-
tion.

No Japanese ever asked me to sign a cheque. There was no specific threat about this cheque. Lim Thian Liang asked me to sign. I was not told that *my* signature was wanted. I did not know that Ong Kee Hui had written to my father about coming back from Singapore.

40 *Re-Xd.* : I never heard what the military officer said. Liang just said they wanted a cheque signed. I can't remember whether he said they wanted my signature. He did say they wanted it immediately.

Re-
examina-
tion.

Lim Thian Liang did tell me that the Japanese military wanted the cheque for 30% of our credit. Lim Thian Liang did not want to take the responsibility. If I had refused to sign there would have been great trouble.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

We were quite indifferent. We merely had to conform to whatever the Japanese ordered.

Close of Plaintiff's Case.
Adjourned till 22/1/53.

(Sgd.) L. D. SMITH,
Ag. Chief Justice.

*Appellant's
Evidence
recorded by
Smith,
Actg. C.J.*

21st January 1953.

22/1/53 Court and Counsel as before.

No. 20.
Wee Hian
Teck, 21st
January
1953.
Re-
examina-
tion.
continued.

No. 21.

Lam Yat Wing (re-called).

10

LAM YAT WING—re-called.

Xd. : Since the adjournment I have again examined the books of the Kyoei Bank. I produce a ledger of the Kyoei Bank, Ex. 8. That shows deposits made by the Kyoei Bank with the Yokohama Specie Bank and the Nampo Kaihatsu Ginko (Southern Regions Development Bank). I have caused extracts to be made. Ex. 9.

See folios 57 and 58 of Ex. 8.

The Kyoei Bank had a current account with the Yokohama Specie Bank. Folios 1-10 and 121-137.

I went through all the entries last night. The Kyoei Bank was always 20 in credit with the Yokohama Specie Bank. The lowest credit was \$108,392.18 on 10/2/45.

The Kyoei Bank kept the withdrawal of \$900,000 on 7/9/45.

Cross-
examina-
tion.

XXd. : The entries on Folios 57 and 58 relate to a separate deposit account—separate account from the current account. On 7/9/45 there was a balance in the current account and the Kyoei Bank withdrew that also. The money is still in the Bank.

22.

Harry Tay,
22nd
January
1953.

No. 22.

Harry Tay.

HARRY TAY sworn states :

30

Examina-
tion.

Xd. : Central Road, West. Accounts clerk in Bian Chiang Bank. I have examined Cash Book and Journal of Kyoei Bank. This is a summary of moneys received and paid by the Kyoei in respect of pre-occupation accounts of Bian Chiang Bank customers. (Ex. 10.) The summary is extracted from Cash Book (Ex. 11) and Journal (Ex. 12) (both omitted from Record).

Cross-
examina-
tion.

XXd. : There were no withdrawals between March 9th and August 31st. ; only payments in.

No. 23.

Ong Kee Hui (re-called).

ONG KEE HUI—re-called.

Xd.: I have studied Ex. 10. \$333,203.54 collected on 24/11/44 and \$355,313.76 paid out are adjustment entries with regard to Wee Kheng Chiang. 29/12/44—\$129,912.12 represents credit balance of Grocers' Association with Bian Chiang Bank. At the request of the Overseas Chinese Association that credit was transferred to the account of the Overseas Chinese Association with the Kyoei Bank. The Grocers' Association was compelled to join the Overseas Chinese Association. After the war the Grocers' Association repudiated this payment. There was negotiation and Wee Kheng Chiang paid half, i.e., \$64,956.06.

XXd.: The Bian Chiang Bank's contention was that this payment of \$129,912.12 was a payment to some extent. As to the transactions on 24/11/44—Wee Kheng Chiang's liability was discharged to the extent of \$22,000. Some of the officials of the Grocers' Association and the Overseas Chinese Association were the same and therefore we regarded the payment to the Overseas Chinese Association as a payment to the Grocers' Association.

20 That is Plaintiff's Case.

In the Court of Appeal of Sarawak, North Borneo and Brunei.

Appellant's Evidence recorded by Smith, Actg. C.J.

No. 23.
Ong Kee Hui, 22nd January 1953 (re-called).
Examination.
Cross-examination.

No. 24.

RESPONDENT'S Counsel's Address to the Court.

Gould: I submit the following books and documents: Ledger of Yokohama Specie Bank as liquidator of Chartered Bank (Ex. 13. Certified Extract).

Cash Book of Yokohama Specie Bank as liquidator of Chartered Bank. (Ex. 14. Certified Extract.)

Brown account book recording payment of 30% deposits to pre-occupation customers of Chartered Bank by Yokohama Specie Bank as liquidators. (Ex. 15.)

Two balance sheets—one at 30/9/44 (Ex. 16) one at 31/10/44 (Ex. 17) of Y.S.B. as liquidators of C.B. Notice in Chinese regarding refund of 30% of Chartered Bank credit (Ex. 18A, omitted from Record) and translation in English (Ex. 18). Notice in Malay regarding refund of 30% of Chartered Bank credit (Ex. 19A, omitted) and translation in English (Ex. 19).

A list of the persons who took advantage of this offer to refund 30% (Ex. 20).

Gould: I call no evidence.

No. 24.
Respondent's Counsel's address to Court, 22nd January 1953.

COURT NOTES on Opening of Appeal.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

IN THE COURT OF APPEAL OF THE SUPREME COURT OF SARAWAK, NORTH BORNEO AND BRUNEI holden at Kuching.

No. 25
Court
Notes on
opening
of Appeal,
21st
January
1953.

WEE KHENG CHIANG Appellant.

THE CHARTERED BANK OF INDIA, AUSTRALIA
& CHINA Respondents.

Civil Appeal No. C/21/52.

21st January 1953.

Before :

10

SMITH, C.J.

LASCELLES, J.

BLAGDEN, J.

Appellant by Mr. Seth and Mr. Dunbar.

Respondent by Mr. Gould.

Respondent :

Submits that affidavits not form part of record. In many cases inaccurate. Morrison could not have taken notes. I took notes.

Seth :

No need for Gould to make notes. Judge must make notes. 20 Morrison's affidavit cover Judge's notes inaccurate.

Court :

Agreed nature retrial—evidence trial Court to be received if not in dispute.



No. 26.

Wee Kheng Chiang.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

Appellant's evidence on Appeal recorded by Lascelles, J.

WEE KHENG CHIANG sworn states in English :

*Appellant's
Evidence
recorded by
Lascelles, J.*

I am a banker and industrialist and landowner living in Mathies Road, Kuching. Chairman of Sarawak Steamship Company. Managing Director of United Chinese Bank, Singapore. Before the war I was the sole proprietor of the Bian Chiang Bank, Kuching. In December 1941 I had credit balance of \$242,641.48 at the Chartered Bank. Since the
10 war I have received a payment of \$169,849.04 from them. I gave my son authority to sign in 1940. When the Japanese declared war I was in Singapore. Before the Japanese invaded Sarawak I was Chairman of the China Relief Fund in Sarawak and head of most anti-Japanese associations in Kuching. When the Johore Causeway was blown up just before the invasion of Singapore by the Japanese I left Singapore and sought refuge in the Dutch island of Moro. Soon after the fall of Singapore I was arrested by the Japanese and taken back to Singapore from Moro Island. I was subsequently released. After my release I went to stay
20 in the Karimon Islands. In about August 1944 I was ordered to go to Singapore by the Japanese. When in Singapore I was required to see one Kakusan, a high ranking military officer from Sarawak, who advised me that I was required by the Japanese authorities in Sarawak, that if I went to Sarawak I would cease to be regarded as an enemy by the Japanese military, and that I was required to assist the Japanese military. The said Kakusan handed me a letter from my son-in-law Ong Kee Hui which was so worded with hidden meaning that I feared returning to Sarawak, so I obtained a medical certificate from a Dr. Smith of Singapore and sought protection from one Shinozaki, a Japanese Welfare Officer in Singapore, and by such means was able to remain in the vicinity of
30 Singapore against the wishes of the said Kakusan. I came to Kuching in October 1945. The Japanese wanted me to return in August 1944. I didn't do so. On my return I repudiated all the transactions done by the Kyoei Bank. I gave my son no authority on my return. I resumed trading as the Bian Chiang Bank on the 1st July 1946. The signature on the cheque No. 53959 dated 10th October, 2604 is my son's signature. I left Kuching finally for Singapore in October 1941.

*No. 26.
Wee Kheng
Chiang.
21st
January
1953.
Examina-
tion.
(Witness
absent.
Evidence
as recorded
by Trial
Judge and
amplified
by affidavit
of 17th July
1952.
Admitted
by consent.)*

*Cross-
examina-
tion.*

XXD.: Never given any authority since the war. I returned to Kuching in October 1945. I left in January 1946. It is my son's signature on the document produced. Never revoked the letter of
40 16/10/40 since.

Re-Xd.: My son-in-law Ong Kee Hui is now my agent here.

*Re-
examina-
tion.*

No. 27.
Ong Kee Hui.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

ONG KEE HUI states in English :

*Appellant's
Evidence
recorded by
Lascelles, J.*

I am the son-in-law of the Plaintiff and live at his house in Mathies Road. Since the end of the war I have acted as his agent in Kuching. I was here during the occupation. The Plaintiff was declared an enemy. His assets were appropriated. My brother-in-law (Wee Hian Teck) attended the Kyoei Bank for the first time on 10/10/44. The Plaintiff's Bank resumed trading on 1/7/46.

No. 27.
Ong Kee
Hui, 21st
January
1953.
Examina-
tion.

I produce the books of Yokohama Specie Bank (Ex. 5).

10

That money, together with other sums collected by the Liquidator of the Bian Chiang Bank, was transferred to an account of the Kyoei Bank with the Yokohama Specie Bank. Books of Yokohama Specie Bank not available except for cash book.

Total \$346,178.91 transferred to Kyoei Bank. The \$273,386.47 represents collections made by the Liquidator of Bian Chiang Bank up to that date (5/10).

Ex. 3 represents Balance Sheet Bian Chiang Bank with Liquidator. 9/10/44. Did not do business nor pay out.

Ex. 4 first Balance Sheet of Kyoei Bank at 10/10 when officially opened. 20 \$877,156.65 cash at Yokohama Specie Bank and includes the Bian Chiang Bank credit of \$346,178.91.

\$157,700 represents allotment of shares in Kyoei Bank to Bian Chiang Bank. Don't know what sort of shares.

Refer suspense account \$238,452.13 represents excess assets over liabilities after the allotment of shares.

Refer Ex. 2. Balance Sheet was of all banks with Kyoei Bank. Assets side \$346,178.91, debit side \$157,700. Suspense account \$238,452.13. Consolidated balance sheet. All appear on Ex. 2.

Customers of Bian Chiang Bank, after complying with certain conditions 30 could draw on account with Kyoei Bank. Not Plaintiff himself. Plaintiff regarded as enemy because of activities as Chairman of China Relief Fund Committee. Plaintiff sole proprietor of Bian Chiang Bank. House taken, Bank seized, ships seized. Plaintiff not in Colony. Organisation of Kyoei Bank done by Japs. Wee Hian Teck represented Bian Chiang Bank in Kyoei Bank. From records of Bian Chiang Bank I see Plaintiff got no benefit—did this as manager of Bian Chiang Bank postwar. The Banks themselves could not interfere in the organisation. I cannot see how Plaintiff obtained any benefit from this transfer.

Japs did want Plaintiff come Kuching. Kakusan—Civil Officer entrusted with forming Bank—asked me obtain return of Plaintiff some time before formation of Kyoei Bank. Wanted his co-operation. Said if he came to Kuching he would be pardoned. Knowing Plaintiff's background I did not want call Plaintiff. I interview head of Kempetai, assured me C.-in-C. Jap forces had last say and if alright by him alright by Kempetai. Kempetai—Military Police—told me write Plaintiff. Did not wish risk Plaintiff's life so in my letter concealed meaning indicating better not come.

In the Court of Appeal of Sarawak, North Borneo and Brunei.
 —
Appellant's Evidence recorded by Lascelles, J.

- 10 During occupation with grandfather Ong Tiang Swee—head of Chinese in Sarawak. In position to know re formation Kyoei Bank. The banks did not voluntarily form Kyoei Bank. If person did not obey Japs severe punishment, possibly pass his name to Kempetai. Latter noted for ill-treatment and atrocities. Six persons publicly executed. Greatly feared.

No. 27.
 Ong Kee Hui, 21st January 1953, Examination, continued.

XXd. by the Court: During the period of the Kyoei Bank about \$632,000 was drawn out and customers' accounts debited postwar and about \$578,000 was paid in and customers' accounts credited.

By the Court.

- 20 *XXd.:* Only non-enemy subjects were allowed to draw money. \$632,315.90 was drawn out and \$578,273.48 was paid in.

Cross-examination.

Transfer first entered into books of liquidator of Chartered Bank (i.e. Yokohama Specie Bank) then liquidator Bian Chiang Bank to Kyoei Bank and then deposited with Yokohama Specie Bank. This was chain of events relating to \$72,000. This ended up in the \$877,156.65 (Ex. 4) at Yokohama Specie Bank.

- 30 Accounts customers Bian Chiang Bank could be transferred to Kyoei Bank and customers could draw on those accounts to full amount. Some customers did. Monies required to pay these customers—if short came from Kyoei Bank account with Yokohama Specie Bank (\$877,156.65). More taken out than paid in. Figures represent overall position, namely \$632,315.90 to go out and \$578,273.48 in. Can't say position at any one time. \$998,152.92 represented working capital of Kwong Lee Bank—Bian Chiang and Wah Tat Banks. Possible on any particular day for former Bian Chiang customers to draw out more than paid in. Possible former customers withdrew \$346,178.91. Theoretically possible for all former Bian Chiang Bank customers to draw out all deposits and exhaust at a particular moment the credit of the Bian Chiang Bank in the Kyoei Bank.

- 40 Payments by Kyoei Bank to Bian Chiang Bank customers regarded as settlement of debt Bian Chiang to customers. Plaintiff's liability to such customers partially discharged. (Covered by Ordinance Section 7.)

Agree such is benefit to Plaintiff—converse also true, i.e. debtors who paid to bank. \$273,386 collected by liquidator but further sums collected by Kyoei Bank. Cannot say Kyoei Bank collected more or less than it

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

paid out re former customers of Bian Chiang. Suspense Account kept by Kyoei Bank to cover any deficiency that might arise if Kyoei Bank had to pay out more than received. Suspense account not to my knowledge drawn on. Form part of the Deposit account in Yokohama Specie Bank i.e. \$877,156.65 Ex. 4 only at beginning—no balance sheet during operation.

*Appellant's
Evidence
recorded by
Lascelles, J.*

Plaintiff was nominated as President of Kyoei Bank by Japs but he refused to come back. On face of it Japs friendly.

No. 27.
Ong Kee
Hui, 21st
January
1953,
Cross-
examina-
tion,
continued.

From about August 1944 onwards pre-war customers of Chartered Bank were able to draw 30% of their account from the Yokohama Specie Bank provided not an enemy. Ordinary residents of Kuching not regarded as enemy. Plaintiff an enemy, i.e. anyone prominently anti-Japs. If Plaintiff non-enemy and in Kuching could have drawn from Kyoei Bank. Plaintiff was the President of Kyoei Bank. On face of it non-enemy. 10

Further
questions
by Courts.

Further XXd. by Court : Plaintiff got out of returning to Kuching on grounds of ill-health.

Re-
examina-
tion.

Re-Xd. : Plaintiff prominent member of community. Name at head of Bank would be of great use to Japs.

Further
questions
by Court.

Further XXd. by Court : All removed at end of war \$1,000,000. Japs money and books. Moratorium declared. Started clean sheet. 20

No. 28.

Lim Thian Liang.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

LIM THIAN LIANG sworn states in English :

Cashier in Plaintiff's Bank. I live at 43 Wayang Street. I was cashier before the war. After the war I worked in the Yokohama Bank as liquidator. Later I had a position in the Kyoei Bank. I was there on 10/10/44. I was a clerk only in the Yokohama Bank. I was cashier at Kyoei. A Japanese military officer came along on 10/10/44. The Vice President of the Kyoei told me to make out this cheque being 30% of our
10 balance at Chartered Bank. He told me the Military had ordered him to make it out. I asked Teck to sign it and he did so. I then sent it along to the Yokohama Bank. I got him to sign it because I wanted him to take the blame. In the result a credit was opened in the Kyoei Bank in Plaintiff's Bank's name.

*Appellant's
Evidence
recorded by
Lascelles, J.*

No. 28.
Lim Thian
Liang,
21st
January
1953.
Examina-
tion.

Necessary obey Japanese order—heavy punishment by Kempetai.

Before occupation I had authority sign cheques for Bian Chiang on Chartered Bank. Did not sign this cheque because during occupation received no authority from Plaintiff to sign therefore asked Plaintiff's son to sign as I am only an employee and Plaintiff was sole proprietor of Bank.
20 I did not think I had authority as conditions changed. New Government.

XXd. : My duty was just to pay out and receive in money. Received no additional authority. Had not been told authority ended. Thought it safer for son—I might have been blamed by Plaintiff. I made out cheque as asked by Japs to do so. Japs told the Vice President Lim Seong Khan of Kwong Lee Bank and he told me. I did not hear Japs tell Lim Seong Khan. All I know is he asked me. Japs came to office and I saw him.

Cross-
examina-
tion.

XXd. by Court : I asked someone else to keep the chop of Bian Chiang Bank. Everyone who had deposit with Chartered Bank was ordered by Japs to draw out 30%. Can't explain why. Notice was issued. Didn't
30 actually see cheque signed. No special case made of this cheque. Anyone who disobeyed Japs severely punished. Jap notice only and not an order. Never seen the Japs' order regarding behaviour. (Jap. Order admitted as Ex. 7 by consent.)

By the
Court.

In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.

Appellant's
Evidence
recorded by
Lascelles, J.

No. 29.
Lim Seong
Khan, 21st
January
1953.
Examina-
tion.

LIM SEONG KHAN affirmed states in Hokkien :

Managing Director of Kwong Lee Bank. I live at 7 Bishopgate Street. I was Managing Director before the war. I became employed in the Yokohama Specie Bank in the liquidation. I became Vice President of the Kyoei Bank. The Japanese brought the balance sheet on 10/10/44. The Japanese Officer said all the assets of the Chinese Banks must be handed to the Kyoei Bank. They ordered cheques for 30% of the money in the liquidation account to be made out and the money transferred to Kyoei. I produce paying-in book (Ex. 6). 10

Japs said compulsory transfer money to Kyoei Bank as Japs considered Kwong Lee Bank to be an enemy. Japs asked me to make out cheque for 30%. No alternative but to obey. I myself had already been shut up for one month 3/6/44 released on 2/7/44. Japs said I had been Treasurer of China Relief Fund. Beaten by Kempetai in that month. I promptly obeyed. I refer to Kwong Lee Bank cheque only, not Bian Chiang Bank. Yokohama Specie Bank started business at 10 a.m. and I had the cheque there before that. If I did not sign it I was afraid I would be arrested again. Sent cheque to Yokohama Specie Bank as liquidator of Kwong Lee Bank. Notice was issued by Yokohama Specie Bank asking people to draw 30%. Don't know when. 20

Cross-
examina-
tion.

XXd. : Other people besides the Banks drew money from the Yokohama Bank. I don't know when.

Lam Yat Wing was in Kyoei Bank when Jap Officer came on 10/10/44 and handed balance sheets. Lam Yat Wing interpreted them for me as I could not understand them. Lam Yat Wing told me the Japs wanted the money transferred. He acted as interpreter and also explained after departure of Japs. The Jap addressed himself to me I then told him Thian Liang to make out a cheque for 30% of Kwong Lee Bank. I was told all the collections together with the Chartered Bank 30% were to be transferred. 30

[sic]

There collections were in hands of the liquidator.

By
Respon-
dent's
Counsel.

Counsel for Defendants/Respondents :

“ No point in telling you transfer collections as not in your possession.”

Collections paid in by me as clerk of Yokohama Specie Bank.

Re-
examina-
tion.

Re-XXd. : I have heard people say that other persons besides the Banks drew money from the Yokohama Specie Bank.

Became Vice President because Japs insisted on Kwong Lee Bank man being number two. Japs nominated me and no option but to accept. The discussion had been going on for some time regarding the formation of the Kyoei Bank and I was invited by the Jap Chief of Treasury to invite all other Banks to form a common bank. Told him that as my Bank already wound up by the Japs no one would trust me. He later invited 40

bazaar people to form a Bank. Later there was a meeting between bazaar people and bankers. Can't remember when. I was present. Japs said banks not to be run by any one person but by several. Called to discuss formation of common bank. I did not speak although I was asked. A Jap presided.

XXd. by Court : I never at any time protested against the formation of the Bank. We could do nothing about drawing out of the 30% of Chartered Bank and can't say whether I liked it or not.

Further XXd. : I knew Kwong Lee Bank was to have a share in the
10 Kyoei Bank.

In the Court of Appeal of Sarawak, North Borneo and Brunei.

Appellant's Evidence recorded by Lascelles, J.

No. 29.
Lim Seong Khan, 21st January 1953,
continued.

By the Court.

Further examination.

No. 30.

Lam Yat Wing.

LAM YAT WING affirmed states in English :

I live at 14/16 Palm Road, Kuching, Manager of the Kwong Lee Bank. Before the war I was a clerk. I was then 26.

The Japs sealed the Plaintiff's Bank and ours. The Manager of Plaintiff's Bank was Chua Bak Hing. He died during the occupation. The Yokohama Specie Bank acted as liquidators. When the Kyoei Bank started liquidating ceased, the Yokohama Bank handed over all the
20 papers to the Kyoei Bank. That was on 10/10/44. They handed over the assets of the Plaintiff's Bank. The Yokohama Bank kept the assets of the Defendants' Bank. The Yokohama Bank transferred 30% of all Chinese Banks' credits with the Defendants to the Kyoei Bank on 10/10/44. I produce Balance Sheet (Ex. 2). On 10/10/44 I was General Manager of the Kyoei Bank. They opened that day. Ex. 5 was brought to the Kyoei Bank by military officer from the Yokohama Specie Bank on 10/10/44 before the ceremonial opening of the Kyoei Bank. Handed to Vice President (Lim Seong Khan). Jap official told him to have cheque for 30% made out and sent immediately to Yokohama Specie Bank.
30 I heard him. It was an order to the Vice President. The Japanese Liquidating Officer said a cheque must be signed to cover the transfer. Our Vice President signed it on behalf of Kwong Lee Bank. The signature on the cheque is that of Wee Hian Teck who was appointed Manager of the Kyoei Bank. The credit in our Bank was a mere book entry.

No. 30.
Lam Yat Wing, 21st January 1953.
Examination.

I produce balance sheet Ex. 4. The Plaintiff's balance remained with the Yokohama Specie Bank. All the money of Kyoei Bank held by Yokohama Specie Bank had to be returned to the Kyoei Bank. We received it in Japanese currency, which was then worthless. It was then about September 1945. We resumed trading in 1946.

40 I have been threatened by the Japanese authorities with punishment for non-co-operation. Threatened by Japs in 1942 when Japs took me

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

*Appellant's
Evidence
recorded by
Lascelles, J.*

*No. 30.
Lam Yat
Wing, 21st
January
1953,
continued.*

*Cross-
examina-
tion.*

*By the
Court.*

*Re-
examina-
tion.*

from Kwong Lee Bank. Told to co-operate and warned if I didn't co-operate life in danger. This when Japs asked for all the cash at Kwong Lee Bank.

Before formation of Kyoei Bank matter discussed many times with Jap officers who sent for me. They wanted information from me re Kuching Banking Practice and Chinese Banks. Balance Sheet drawn up (Ex. 1 & 2) by Japs. Amount decided by Japs. I had no say in policy. Only supplied information at their request.

In Ex. 2 the \$200,000 represents the share capital.

Cheque of \$72,000 required to support transfer in liquidator books. 10
Same applied to Kwong Lee's credit (\$58,000) with Chartered Bank.

Before Kyoei Bank opened Jap Officer showed me Bank Order (Ex. 7). Not like this. It was in Japanese and was explained to me by the Jap. Penalties provided in Chap. 7 paras. 22 and 23. If Wee Hian Teck had refused it would be unwise and he would have been arrested.

XXd. : During the occupation the Defendants' Bank was under a liquidator, the Yokohama Bank. So were the Plaintiff's Bank and Kwong Lee Bank. The Chinese Banks were treated as enemy banks up to 10/10/44. The Kyoei Bank purported to be an amalgamation of the Plaintiff's Bank, Kwong Lee and Wah Tat Banks, and other persons. 20
It was possible for creditors of the Plaintiff's Bank to draw on their credits when same had been taken over by the Kyoei Bank. They could operate as an ordinary current account. Some of the drawings from the Yokohama Bank by the Kyoei Bank were for customers who had had balances with the Plaintiff's Bank which had been transferred.

Pre-formation discussions were over a few months. Discussions were begun—because I don't know why. I did not attend the meetings. Understood the Kwong Lee Bank shareholders would have shares in Kyoei Bank. My family hold majority of shares in Kwong Lee Bank. I never protested at any of these meetings. At end of war no methodical 30
winding up of Kyoei Bank. Books of Kyoei Bank are with Kwong Lee Bank now. Can't say whether at any time payment out by customers exceed payments in by customers. Could only discover by look at books. Re Ex. 4 opening balance Sheet Kyoei Bank. If not enough cash in Kyoei Bank to meet customers' demand further cash would have to be withdrawn from Yokohama Specie Bank. During life of Kyoei Bank considerable withdrawals from Yokohama Specie Bank. Balance at any time ascertainable from Kyoei Bank's books. Sum could be used to pay customers of Kyoei Bank (formerly of Kwong Lee Bank and Bian Chiang Bank). Some of the \$877,156.65 was transferred to the Kyoei Bank. 40

Xd. by Court : I did hear at meetings reasons for Kyoei Bank. Did not approve it as shares of Kwong Lee Bank in Kyoei Bank were less than assets of Kwong Lee Bank.

Re-Xd. : The Japs controlled all banking business. I would have had more confidence in our running Banks than Japs method with our Bank.

No. 31.

Wee Hian Teck.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

WEE HIAN TECK affirmed in English :

Son of Plaintiff. Merchant carrying on business under the name of Tiong Kheng & Co., 4 Gambier Road, in partnership with my brother-in-law. Live in Mathies Road with Plaintiff. In 1941 I was working in the Plaintiff's Bank. I was insurance clerk. I had authority to sign cheques. I was here when the Japanese came. After they arrived I never went to the office. The Bank was sealed and later opened under
10 the Yokohama Bank. I didn't work in it. The Kyoei Bank was formed on 10th October, 1944. I was appointed Manager. I didn't ask to be. I was paid a salary. I signed the cheque \$72,792.44. Mr. Lim Thian Liang asked me to do so. He was the cashier in the Kyoei Bank. He said a military officer wanted me to do so. I signed because I had to. I had no account. This was the only cheque I signed. Had had no communication from the Plaintiff since December 1941.

*Appellant's
Evidence
recorded by
Lascelles, J.*

No. 31.
Wee Hian
Teck,
21st
January
1953.
Examina-
tion.

I would have signed a larger cheque on 10/10/44 if asked as I have got to sign as Japs asked me to sign. Could not have refused to sign. If
20 I had I would have been punished. Japs always punished people who refused obey orders. I did say at trial if cheque had been for a million I would have signed. I know nothing of banking. Japs made me Manager of Kyoei Bank—never asked for job. Lam Yat Wing did the work for me. I was mere figure-head. Kempetai sent for me during occupation, enquiring whereabouts of father as they treated him as enemy. I knew this. I was afraid of Kempetai. Must obey Japs or be punished.

X-Xd. : Liang was the cashier in the Kyoei Bank. He had originally been cashier in Plaintiff's Bank. He told me the military wanted my signature. He filled in the cheque. He told me the amount represented
30 30% of a sum of money to be transferred from the Yokohama Bank to the Kyoei Bank. He said it was the Bian Chiang Bank balance with the Chartered. He explained it all at the time. He first said the Japanese wanted it done. I knew that the Kyoei Bank was to be an amalgamation of the 3 Chinese Banks. I didn't know that customers of the 3 Banks would have their accounts transferred. I was there just under a year. I attended every day. I didn't notice any of our old customers come in, or if they had accounts with the Kyoei. Nobody ever told me. I was suffering from shell-shock.

Cross-
examina-
tion.

No Japs ever asked me to sign and I was never threatened by Japs for refusing to sign cheque—no specific threat. Liang did ask me to sign.
40 I was not told Japs wanted *my* signature on this particular cheque. I did not know brother Kee Hui had written to Plaintiff about return to Kuching. Knew father Plaintiff had been nominated President of Bank.

Re-Xd. : I never heard what the Military Officer said. Liang just said they wanted a cheque signed. I can't remember whether he said they wanted my signature. He did say they wanted it immediately.

Re-
examina-
tion.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

Liang told me Jap military wanted a cheque for 30% of credit balance of Bian Chiang Bank with Chartered Bank. Liang asked me to sign it. Liang could have signed but didn't want to sign and undertake responsibility. I know there would be trouble from the Japs if I didn't sign and I was afraid. I signed because I was afraid of what Japs would do to me if I didn't. I was bomb-shocked at time.

*Appellant's
Evidence
recorded by
Luscelles, J.*

XXd. by Court: Knew what it was all about. Liang asked me to sign so I signed. I had to become Manager. Never punished by Japs.

Court: Unsatisfactory witness. Appears has difficulty in understanding questions asked. 10

No. 31.
Wee Hian
Teck, 21st
January
1953,
Re-
examina-
tion,
continued.

Court adjourns to 9 a.m. 22nd January, 1953.

By the
Court.

22nd January, 1953.

Seth requests continue call evidence.

No. 32.
Lam Yat
Wing
(re-called),
22nd
January
1953.
Examina-
tion.

No. 32.

Lam Yat Wing (re-called).

LAM YAT WING (re-called):

Kyoei Bank books is in Kwong Lee Bank possession. Examined in past and also since adjournment yesterday. Produce books, Ledger of Kyoei Bank showing deposits (Ex. 8 omitted) with Yokohama Specie Bank and with the Nampo Kaihatsu Ginko (Southern Region Development Bank). I have made extracts (produced). (Ex. 9.) Copy given to Defendant. 20

Folios 57 and 58 show deposits with Yokohama Specie Bank. Four days' collection. Witness reads out entries from ledger. Folio 53 shows deposit with Nampo Kaihatsu Ginko. Ledger also shows current account Kyoei Bank with Yokohama Specie Bank. 27 pages—Folios 1-10 and 121-137. I have gone through all entries. Kyoei Bank always in credit with Yokohama Specie Bank. Lowest figure of credit shown \$108,392.18 on 19/2/45. Kyoei Bank kept the \$900,000 until liberation.

Cross-
examina-
tion.

XXd.: Figures Ex. 9 relate to separate deposit account. Bian Chiang Bank liquidator paid \$346,000 odd in Yokohama Specie Bank current account. On 7th September 1945 current account balanced with Yokohama Specie Bank also withdrawn as well as the \$900,000. That money still with Kwong Lee Bank. 30

No. 33.
Harry Tay.

HARRY TAY, states in English :

Central West Road. Employed by Bian Chiang Bank as account clerk. Examined cash book and journal of Kyoei Bank showing transaction between Kyoei Bank and pre-war customers of Bian Chiang Bank. Prepared summary of monies received by and paid by Kyoei Bank with such customers : balances from time to time. Total obtained from cash book (11) Journal (12).

10 Summary Ex. 10.

XXd. : No entries March 9th to August 31st. No entries. Collections only, i.e., \$118,965.59. No withdrawals.

In the Court of Appeal of Sarawak, North Borneo and Brunei.

Appellant's Evidence recorded by Lascelles, J.

No. 33.
Harry Tay,
22nd
January
1953.
Examina-
tion.

Cross-
examina-
tion.

No. 34.

Ong Kee Hui (re-called).

ONG KEE HUI (re-called) :

Have seen Ex. 10.

24th November 1944 large sum explained by book transfers in connection with other tradings account of Plaintiff. Pure adjustment entry. One of customers of Bian Chiang Bank Chinese Grocers Association. During occupations Japs organised all Chinese Associations into Overseas Chinese Association. All forced to join by Japs. Re 29th December, figure represents credit balance with Grocers' Association had with Bian Chiang Bank. Transferred by Overseas Chinese Association to an account of the Overseas Chinese Association with Kyoei Bank. After was Grocers Association repudiated the payment saying that the Overseas Chinese Association never took place of Grocers and had no authority. After negotiations Plaintiff paid half.

No. 34.
Ong Kee
Hui
(re-called),
22nd
January
1953.
Examina-
tion.

Q. You paid half, there presume you admit was some payment to Grocers Association.

Cross-
examina-
tion.

30 *A.* Yes, because of the circumstances some of officials of Grocers Association also officials of new Association. Entries on November 24th were in connection with Plaintiff own business affair. I agree Plaintiff's personal liability thus reduced by some \$22,000 but explain by fact that debit was in respect of Singapore firm of which Plaintiff was a partner and also depends on revaluation under D.C. law.

Close of Plaintiff's evidence.

PLAINTIFF'S CASE :

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

RESPONDENT'S Counsel's Address to the Court.

Defendant/Respondent's Counsel requests adjournment consider new evidence of Plaintiff.

No. 35.
Respon-
dent's
Counsel's
Address to
Court,
22nd
January
1953.

States :

One ground of appeal was non-production of Liquidator books of Chartered Bank. I produce ledger of Yokohama Specie Bank acting as Liquidators of Chartered Bank (Ex. 13. Certified Extract). Also Cash Book (Ex. 14, certified extract) and book record of payments to persons who took their 30% from Chartered Bank (Ex. 15).

10

Also two balance sheets, 30th September 1944 (Ex. 16) and 31st October 1944 (Ex. 17). All these shown to Plaintiff. Also form of notice sent out by Yokohama Specie Bank re withdrawing 30% from Chartered Bank.

Chinese Notice (Ex. 18A, omitted from Record). Translation in English (Ex. 18). Malay Notice (Ex. 19A, omitted from Record). Translation in English (Ex. 19). List of people who did take out (Ex. 20).

Defendant/Respondent calling no evidence.

No. 36.

COURT NOTES on Opening of Appeal.

In the Court of Appeal of Sarawak, North Borneo and Brunei.

IN THE COURT OF APPEAL OF THE SUPREME COURT OF SARAWAK, NORTH BORNEO AND BRUNEI holden at Kuching.

WEE KHEN CHIANG Appellant.

THE CHARTERED BANK OF INDIA, AUSTRALIA & CHINA Respondents.

No. 36. Court Notes on opening of Appeal, 21st January 1953.

Civil Appeal Case No. C/A/21/53.

Kuching, 21st January, 1953.

10

Cor. : SMITH, Acting Chief Justice.
LASCELLES, J.
BLAGDEN, Ag. J.

Seth & Dunbar for Appellants.

Gould for Respondents.

Gould : Object to all affidavits.

Seth : Press all affidavits.

Gould : Submit affidavits are not accurate records of what was said at the trial. They are in any case not part of the record. I have note of my own which corresponds with Judge's note.

20

Seth : Only Judge's note is part of record. His note is obligatory. Mark Morrison, who was Counsel engaged in the case, has sworn affidavits which does not accord with what Gould now says.

Court : In circumstances re-trial must take place before us. (Section 30 (C. of A. Rules) 1951.) Counsel agreed.



*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

No. 37.

Wee Kheng Chiang.

Plaintiff/Appellant's Evidence on Appeal recorded by Blagden, J.

WEE KHENG CHIANG sworn states :

*Appellant's
Evidence
recorded by
Blagden, J.*

No. 37.

Wee
Kheng
Chiang,
21st
January
1953.
Examina-
tion.
(Witness
absent.
Evidence
as recorded
by Trial
Judge and
amplified
by affidavit
of 17th
July 1952.
Admitted
by consent.)

I am a banker and Industrialist and landowner living in Mathies Road, Kuching. Chairman of Sarawak Steamship Company. Managing Director of United Chinese Bank, Singapore. Before the war I was the sole proprietor of Bian Chiang Bank, Kuching. In December 1941 I had a credit balance of \$242,641.48 at the Chartered Bank. Since the war I have received a payment of \$169,849.04 from them. I gave my son authority to sign in 1940. When the Japanese declared war I was in Singapore. Before the Japanese invaded Sarawak I was Chairman of the China Relief Fund and head of most anti-Japanese associations in Kuching. When the Johore Causeway was blown up just before the invasion of Singapore by the Japanese I left Singapore and sought refuge in the Dutch island of Moro. Soon after the fall of Singapore I was arrested by the Japanese and taken back to Singapore from Moro Island. I was subsequently released. After my release I went to stay in the Karimon Islands. In about August 1944 I was ordered to go to Singapore by the Japanese. When in Singapore I was required to see one Kakusan, a high ranking military officer from Sarawak, who advised me that I was required by the Japanese in Sarawak, that if I went to Sarawak I would cease to be regarded as enemy by the Japanese military and that I was required to assist the Japanese military. The said Kakusan handed me a letter from my son-in-law, Ong Kee Hui which was so worded with hidden meaning that I feared returning to Sarawak, so I obtained a medical certificate from a Dr. Smith of Singapore and sought protection from one Shinozaki, a Japanese Welfare Officer in Singapore, and by such means was able to remain in the vicinity of Singapore against the wishes of the said Kakusan.

I came to Kuching in October 1945. The Japanese wanted me to return in August 1944. I didn't do so. On my return I repudiated all the transactions done by the Kyoei Bank. I gave my son no authority on my return. I resumed trading as the Bian Chiang Bank on 1st July 1946. The signature on the cheque No. 53959 dated 10th October 2604 is my son's signature. I left Kuching finally for Singapore in October 1941.

Cross-
examina-
tion.

XXd. : Never given any authority since the war. I returned to Kuching in October 1945. I left in January 1946. It is my son's signature on the document produced. Never revoked the letter of 16/10/40 since.

Re-
examina-
tion.

Re-XXd. : My son-in-law Ong Kee Hui is now my agent here.

Judge's Note : Document is not the cheque ; it was a document tendered by Gould to Wee Kheng Chiang. Not really relevant and did not form part of record.

10
20
30
40

No. 38.

Ong Kee Hui.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

*Appellant's
Evidence
recorded by
Blagden, J.*

No. 38.
Ong Kee
Hui, 21st
January
1953.
Examina-
tion.

ONG KEE HUI :

I am the son-in-law of the Plaintiff and live at his house in Mathies Road. Since the end of the war I have acted as his Agent in Kuching. I was here during the occupation. The Plaintiff was declared an enemy. His assets were appropriated. My brother-in-law, Wee Hian Teck, attended the Kyoei Bank for the first time on October 10th, 1944. The Plaintiff's Bank resumed trading on 1/7/46.

10 I produce the books of Yokohama Specie Bank (Ex. 5).

Judge's Note : Ex. 5 is the Bian Chiang Bank account which was carried on by Yokohama Specie Bank as Liquidator.

I had nothing to do with the signing of the cheque. The \$72,792.44 together with other sums collected by the Liquidator of the Bian Chiang Bank was transferred to an account of the Kyoei Bank with the Yokohama Specie Bank. The books of the Yokohama Specie Bank are not available. Cannot produce them except for Cash Book containing Ex. 5. The total amount of the Bian Chiang Bank credit in the Kyoei Bank account with the Yokohama Specie Bank as recorded in this Cash Book is \$72,792.44
20 and \$273,386.47 equals \$346,178.91. This was the total amount transferred to Kyoei Bank. That \$273,386.47 represented the collections made by the Liquidator (Yokohama Specie Bank) up to that date 5th October 1944 (see folio 13, Ex. 5).

I am shewn Ex. 3. This is the Balance Sheet as at 9th October 1944 of the Bian Chiang Bank with its Liquidator (Yokohama Specie Bank).

The assets side shew the \$273,386.47 and the \$72,792.44. I should explain that the Bian Chiang Bank was not functioning as a bank. The Liquidator was going round collecting debts and he collected in all this \$273,386.47. No money was paid out.

30 I am shewn Ex. 4. This is the first balance sheet of the Kyoei Bank on the day when it officially opened its doors.

The assets item \$877,156.65 is the amount in cash which the Kyoei Bank had with the Yokohama Specie Bank and it includes the Bian Chiang Bank's credit of \$346,178.91. The liability item of \$157,700 represents the value of the allotment of shares made by the Kyoei Bank to the Bian Chiang Bank. I also refer to the Suspense Accounts item of \$238,452.13 under liabilities. This represents excess of assets over liabilities after the allotment of shares.

I am referred to Ex. 1 and 2.

40 Ex. 2 is a balance sheet shewing assets and liabilities of the three banks (Kwong Lee Bank, Bian Chiang Bank and Wah Tat Bank) with the Kyoei Bank. It is a consolidated balance sheet. I refer to the asset items under Bian Chiang Bank. There appear first the two amounts of

In the Court of Appeal of Sarawak, North Borneo and Brunei.

Appellant's Evidence recorded by Blagden, J.

No. 38.
Ong Kee Hui, 21st January 1953, Examination, continued.

\$72,792.44 and \$273,386.47 already referred to. On liabilities side under Bian Chiang Bank appears the \$157,700 (share allotment) referred to and the Suspense account \$238,452.13 referred to. These items also appear on Ex. 1.

The customers of the Bian Chiang Bank after complying with certain formalities could draw on their accounts with the Kyoei Bank. Plaintiff could not draw on this account himself because he was regarded as an enemy because of his activities as Chairman of the China Relief Fund, an anti-Japanese organisation. Wee Kheng Chiang was sole proprietor of the Bian Chiang Bank. Japs sealed Bian Chiang Bank; took Wee Kheng Chiang's house, ships and stocks. He was not in Sarawak. 10

The Banks could not interfere. The organisation of Kyoei Bank was done by the Japs. In the Kyoei Bank the Bian Chiang Bank was represented by Wee Kheng Chiang's son.

After the war as Manager of Bian Chiang Bank I looked into affairs of Bian Chiang Bank and from the records available I could not see that any benefits accrued from this credit of \$72,792.44 in the Kyoei Bank.

The Japs wanted Wee Kheng Chiang in Sarawak. Japanese official Kakusan interested in formation of Banks came to me; said he wanted Wee Kheng Chiang back. This was some time before formation of Kyoei Bank. Said he wanted Wee Kheng Chiang's co-operation; if he returned he would be pardoned. I had interview with head of Kempetai, who assured me the matter rested with Japanese Commander-in-Chief and if he said it was O.K. for Wee Kheng Chiang to return it would be O.K. with Kempetai. Kempetai were Japanese Military Police. I was told to write to Wee Kheng Chiang giving this information but I worded my letter so as to convey to Wee Kheng Chiang: "Japanese say O.K. but it is really up to you to decide." I made no recommendation to him to return. 20

During the occupation I lived with grandpa, Ong Tiang Swee, head of Chinese Community and acted as his secretary. 30

I was in a position to know about the formation of the Kyoei Bank. These Chinese Banks did not voluntarily come into this Kyoei Bank scheme. Refusal to obey Japanese orders would mean direct punishment or report to Kempetai. Bank Order makes this clear. Kempetai were dreaded; noted for ill-treatment and atrocities. Six persons were publicly executed. I myself saw this. Kempetai struck terror; compelled respect for their orders.

Cross-examination.

XXd.: Not sure of sequence of events regarding transfers of the \$72,792.44. Appear to be:— 40

- Books of liquidator of Chartered Bank to—
- Books of liquidator of Bian Chiang Bank to—
- Books of Kyoei Bank to—
- Deposit with Yokohama Specie Bank.

The \$877,156.65 on Ex. 4 includes the \$346,178.91, which includes the \$72,792.44.

The \$72,792.44 can be traced in the books of the liquidator of the Chartered Bank.

Accounts of customers of Bian Chiang Bank and the other two Banks could be transferred to Kyoei Bank—in some cases voluntarily. Customers had to apply for transfer. They could then operate subject to usual banking formalities. Many customers did so operate. Moneys required by Kyoei Bank to pay these customers were obtained partly by drawing
 10 on Yokohama Specie Bank against Kyoei Bank's credit with Yokohama Specie Bank (i.e. from the \$877,156.65) but of course the Kyoei Bank had some funds itself. As far as I know \$632,315.90 was drawn out and \$578,273.48 paid in. This was the overall position. Cannot say what the position was on any one day.

The \$877,156.65 represents shares of the three Chinese banks to the working capital of the Kyoei Bank. Possible that on one day there were large withdrawals by Bian Chiang Bank customers without any payments in. Possible that withdrawals more than payments in on any one day by
 20 \$346,178.91, i.e. that the whole of Bian Chiang Bank's share of the \$877,156.65 was exhausted on any one day.

Payments to Bian Chiang Bank former customers by Kyoei Bank during occupation are regarded (as per Debtor & Creditor Occupation Period Ordinance) as payments to its customers and Wee Kheng Chiang's liability to those customers has been to that extent discharged and those customers have been debited accordingly. I admit the operations of the Kyoei Bank have in this sense been a benefit to Wee Kheng Chiang but the converse also holds true, for example, as regards the \$273,386.47 collected by the liquidator. To some extent the Kyoei Bank also collected some debts. But I have said I have studied records and my opinion is
 30 that no benefit accrued to Wee Kheng Chiang. I cannot say if Kyoei Bank collected more money from Bian Chiang Bank debtors than they paid out to Bian Chiang Bank creditors.

I might refer to the Suspense Account which was kept by the Kyoei Bank to meet any deficiencies that might arise if the Kyoei Bank had to pay out more than it received. As far as I know they had no occasion to draw on the Suspense Account. I agree, however, that this Suspense Account (\$238,452.13 in the case of Bian Chiang Bank) is not separate from the \$877,156.65.

Ex. 4 is the opening balance sheet of the Kyoei Bank. It is the only
 40 one available.

Wee Kheng Chiang was nominated as President in his absence of the Kyoei Bank. I agree on the face of it the Japanese appeared to be ready to be friendly with Wee Kheng Chiang. From August 1944 any resident of Kuching who had an account pre-war with Chartered Bank was able to draw 30% of his pre-war Chartered Bank balances from the Liquidator

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

*Appellant's
Evidence
recorded by
Blagden, J.*

No. 38.
Ong Kee
Hui, 21st
January
1953,
Cross-
examina-
tion,
continued.

In the Court of Appeal of Sarawak, North Borneo and Brunei.

(Yokohama Specie Bank) provided he was not an enemy. English people and anyone who had been prominently anti-Japanese were regarded as enemies. If Wee Kheng Chiang had been in Kuching he could have drawn on his account in the Kyoei Bank. He was on the face of it a non-enemy as he was appointed President of the Kyoei Bank.

Appellant's Evidence recorded by Blagden, J.

XXd. by Court: Wee Kheng Chiang managed to get a health certificate that he was not fit to return to Sarawak. Singapore was under a different Japanese jurisdiction to Sarawak.

Re-Xd.: Wee Kheng Chiang was a most prominent member of the Chinese community. His name as head of Kyoei Bank would have 10 rallied Chinese support. Hence Japanese keenness to get him back.

No. 38.
Ong Kee Hui, 21st January 1953,
Cross-examination, continued.
By the Court.
Re-examination.
Further examined by the Court.

Further XXd. by Court: At end of war moratorium froze all accounts. Then Debtor & Creditor (Occupation Period) Ordinance came into operation and banks resumed operations. The Kyoei Bank had about a million Japanese notes—worthless paper. Our credit of \$346,178.91 came to nothing. We started again with a clean sheet—under the Debtor & Creditor (Occupation Period) Ordinance. I can't say if Wee Kheng Chiang would have elected to go on banking after formation of Kyoei Bank on 10th October 1944.

No. 39.
Lim Thian Liang, 21st January 1953.
Examination.

No. 39.

20

Lim Thian Liang.

LIM THIAN LIANG (m) affirmed states in English :

I am cashier in Plaintiff's Bank. I live at 43, Wayang Street. I was Cashier before the war. After the war I worked in the Yokoama Bank as liquidator. Later I had a position in the Kyoei Bank. I was there on 10/10/44. I was a clerk only in the Yokohama Bank. I was cashier at Kyoei. A Japanese military officer came along on 10/10/44. The Vice President of the Kyoei told me to make out this cheque being 30% of our balance at Chartered Bank. He told me the military had ordered him to make it out. I asked Teck to sign it and he did so. I 30 then sent it along to the Yokohama Bank. I got him to sign it because I wanted him to take the blame. In the result a credit was opened in the Kyoei Bank in Plaintiff's Bank's name.

When Japanese made order—necessary to obey. Consequence of disobedience—punishment and lock-up by Kempetai. I had authority to sign cheques on behalf of the Bian Chiang Bank on its account with the Chartered Bank. But I did not sign the cheque for \$72,792.44 because during occupation had received no authority from Wee Kheng Chiang, therefore I asked Wee Kheng Chiang's son to sign it. I was only an employee. Wee Hian Teck's father was the sole proprietor of the Bian Chiang Bank. 40 I did not think I had authority because conditions had changed.

XXd. : I received no additional authority from Wee Kheng Chiang. I was never told previous authority had been determined but I thought it had been. I thought it would be safer if Wee Kheng Chiang's son signed, otherwise I might be blamed by Wee Kheng Chiang later. I made out cheque. I was asked to do so by Japanese or rather Japanese asked the Vice President (Lim Seong Khan) and he asked me. I was present when Japanese officer spoke to Lim Seong Khan but I did not hear what was said as I was working. My duty was just to pay out and receive in money.

In the Court of Appeal of Sarawak, North Borneo and Brunei.

Appellant's Evidence recorded by Blagden, J.

10 *No Re-examination.*

XXd. by Court : Bian Chiang Bank had a chop. I got some shop to keep it for us. Japanese issued an order that everyone who had a Chartered Bank balance *had* to draw 30%. Wee Kheng Chiang's son signed cheque. Had he refused to do so Japanese officer would have locked him up. They did not make a special point of this cheque (cheque No. 53959)—it was part of general routine of obeying Japanese orders. My impression was that Yokohama Specie Bank published *notice*, not order that Chartered Bank customers could draw 30%. Bank Order tendered by Counsel.

No. 39.
Lim Thian Liang, 21st January 1953,
Examination,
continued.

Cross-examination.

By the Court.

20

No. 40.

Lim Seong Khan.

No. 40.
Lim Seong Khan, 21st January 1953.
Examination.

LIM SEONG KHAN (m) affirmed states in Hokkien :

Managing Director of Kwong Lee Bank. I live at 7, Bishopsgate Street. I was Managing Director before the war. I became employed in the Yokohama Bank in the liquidation. I became Vice President of the Kyoei Bank.

The Japanese brought the balance sheet on 10/10/44. The Japanese officer said all the assets of the Chinese banks must be handed to the Kyoei Bank. He said it was compulsory for us to do so because they
30 considered our Bank to be enemy property.

They ordered cheques for 30% of the money in the Liquidation Account to be made out and the money transferred to Kyoei. The Japanese asked me and also Bian Chiang Bank to make out cheques for 30% of the amounts of our credits with the Chartered Bank. When they asked we had no alternative but to obey ; I myself had already been shut up for one month—that was on 3rd June 1944 ; released 2nd July 1944. I was shut up because they said I had been the Treasurer of the China Relief Fund. During that month I was also beaten up by the Kempetai. When I was told to make out this Kwong Lee Bank cheque I obeyed—promptly within

*In the
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the hour. The Yokohama Specie Bank started business at 10.00 hours and had to make out the cheque before then. If I had not signed the cheque I was afraid I might be arrested again. I sent the cheque to the Yokohama Specie Bank because they were acting as Liquidators of my Kwong Lee Bank. I only know a notice was issued asking people to draw 30%.

*Appellant's
Evidence
recorded by
Blagden, J.*

XXd. : Lam Yat Wing was also in the Kyoei Bank office when this Japanese Officer came and gave these instructions. I could not understand the balance sheets and Lam Yat Wing interpreted them to me. It was Lam Yat Wing who told me assets of Kwong Lee Bank and Bian Chiang Bank had to be handed over to Kyoei Bank. He was translating what the Japanese said. He acted as interpreter. He also explained it to me again after the Japanese had gone. The Japanese addressed himself to me; Lam Yat Wing interpreted. Later I told Lim Thian Liang he should make out cheque for 30% of Bian Chiang credit with Chartered Bank and pay it to the Yokohama Specie Bank. I was told that all the Kwong Lee Bank assets collected together with 30% of the Kwong Lee Bank credit with the Chartered Bank would be paid over to the Kyoei Bank, which had an account with the Yokohama Specie Bank. I was not in possession of these collected assets, they were held by the Yokohama Specie Bank. 10

No. 40.
Lim Seong
Khan, 21st
January
1953,
Examina-
tion,
continued.

Cross-
examina-
tion.

Re-
examina-
tion.

Re-Xd. : I was Vice President of Kyoei Bank because Japanese insisted on a Kwong Lee Bank man being Vice President. They nominated me. I had to accept this otherwise they would have beheaded me.

Further
examina-
tion.

Further Xd. by leave of Court and agreement : The Japanese Chief of Treasury had previously asked me to invite all the other Banks to form a common bank. I told him that as my Bank had already been sold up by Government (Japanese) I could not do that and no one would trust me. He said he could not help it and later he invited the bazaar people to come along. There was later a meeting of the bazaar people and the bankers. I cannot remember when. I was present. Object of meeting : to discuss formation of common bank. I did not speak at this meeting. I was asked for my views. I had none as my bank was already taken over. Japanese presided over this meeting. I did not exactly speak at it. Perhaps I did not protest. I did not get up and say no. 30

Further
Cross-
examina-
tion.

Further XXd. : I knew that if this Kyoei Bank were formed the Kwong Lee Bank would have a share in it.

Further
questioned
by the
Court.

Further Xd. by Court : I was not pleased to get this 30% Chartered Bank credit unfrozen. We had no choice in the matter. The Japanese made the decision. 40

No. 41.
Lam Yat Wing.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

*—
Appellant's
Evidence
recorded by
Blagden, J.*

*—
No. 41.
Lam Yat
Wing, 21st
January
1953.
Examina-
tion.*

LAM YAT WING (m) affirmed states in English :

I live at 14/16 Palm Road, Kuching. Manager of the Kwong Lee Bank. Before the war I was a clerk. I was then 26. The Japanese sealed the Plaintiff's Bank and ours. The Manager of Plaintiff's Bank was Chua Bak Hing. He died during the occupation. The Yokohama Specie Bank acted as Liquidators. When the Kyoei Bank started, liquidating ceased, and the Yokohama Specie Bank handed over all papers to the Kyoei Bank. That was on 10/10/44. They handed over the assets of the Plaintiff's Bank. The Yokohama Bank kept the assets of the Defendant's Bank. The Yokohama Bank transferred 30% of all Chinese Banks' credits with the Defendants to the Kyoei Bank on 10/10/44. I produce balance Ex. 2. On 10/10/44 I was General Manager of the Kyoei Bank. They opened that day.

Ex. 3 was brought to the Kyoei Bank by a Japanese military officer from Yokohama Specie Bank on 10th October, 1944, before the ceremonial opening of the Kyoei Bank (on the Kwong Lee premises). It was handed to Lim Seong Khan. I heard the official tell Lim Seong Khan to have cheques drawn up for 30% of the Chinese Banks' credit with Chartered Bank and to send it immediately to Yokohama Specie Bank. This was an order to Lim Seong Khan. He signed a cheque on behalf of Kwong Lee Bank. The signature on cheque No. 53959 is that of Wee Hian Teck who was appointed Manager of the Kyoei Bank. I produce balance sheet Ex. 4.

The Plaintiff's balance remained with the Yokohama Specie Bank.

Shortly before the Allies returned all the money which the Kyoei Bank had on deposit with the Yokohama Specie Bank was ordered to be returned to the Kyoei Bank. I don't know if Bian Chiang Bank had any deposit with Yokohama Specie Bank. The Kyoei Bank received its deposit in Japanese currency which was then worthless. It was then about September 1945. The Kwong Lee Bank resumed trading in 1946. I have been threatened by the Japanese authorities with punishment for non-co-operation. I was threatened by the Japanese in 1942. When Japanese officer came to collect the Kwong Lee Bank cash I was told it was enemy property. Told I must co-operate; could not refuse. Said if I did not co-operate my life would be in danger. I naturally surrendered the cash. Customers could operate their accounts subject to simple formalities. Before Kyoei Bank formed Japanese officer sent for me many times to supply information about banking practice and about Kwong Lee Bank, and Bian Chiang Bank. A balance sheet was drawn up. These are Ex. 1 and Ex. 2, which were drawn up by Japanese. They decided the amounts which were to appear. I had no say in them or in the policy. I only supplied information.

The entry "B.L" on Ex. 2 should read "Kyoei." The \$200,000 underneath was what was to be subscribed.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

The cheque for \$72,792.44 was required because the Japanese Liquidator had no vouchers to support the transfer. Similarly with the Kwong Lee Bank's \$58,841.86.

*Appellant's
Evidence
recorded by
Blagden, J.*

Before Kyoei Bank was opened I saw the Bank order in Japanese. The Japanese Officer explained it to me. I am shewn Ex. 7 which I understand to be a certified translation. Penalties are imposed by Sections 22 and 23. It would not have been wise for Wee Kheng Chiang's son to have refused to sign the cheque. He might have been arrested for disobedience.

*No. 41.
Lam Yat
Wing, 21st
January
1953,
Examina-
tion,
continued.*

XXd. : During the occupation the Defendant's Bank was under a Liquidator, the Yokohama Specie Bank. So were the Plaintiff's Bank and Kwong Lee Bank. These Chinese banks were treated as enemy banks up to 10/10/44. The Kyoei Bank purported to be an amalgamation of the Plaintiff's Bank, Kwong Lee and Wah Tat Banks and other persons. It was possible for creditors of the Plaintiff's Bank to draw on their credits when same had been taken over by the Kyoei Bank. They could operate as an ordinary current account. Some of the drawings from the Yokohama Bank by the Kyoei Bank were for customers who had had balances with the Plaintiff's Bank which had been transferred. 10

*Cross-
examina-
tion.*

The discussions re formation of Kyoei Bank ranged over a few months. Don't know why discussions started. I attended meetings. I understood the Kwong Lee Bank's shareholders and not the Kwong Lee Bank would have a share in the proposed Kyoei Bank. I did not protest against the formation of Kyoei Bank. Could not. Kyoei Bank was never methodically wound up at end of war. Kwong Lee Bank now have the Kyoei Bank books. Ex. 4 is opening balance sheet of Kyoei Bank. If more cash had been drawn than was available then Kyoei Bank would have had to make recourse to the Yokohama Specie Bank. See items under "cash" on assets side of Ex. 4. There were considerable withdrawals from the Yokohama Specie Bank. By reference to Kyoei Bank books I could determine what size of Kyoei Bank balance in Yokohama Specie Bank was at any time. The money available in Yokohama Specie Bank may have been used to pay out former Bian Chiang Bank customers but I don't know. 20 30

*Re-
examina-
tion.*

Re-Xd. : The Japanese controlled all banking business.

*By the
Court.*

XXd. by Court : At these meetings re formation of Kyoei Bank the scheme was explained. I was not in favour of it because they would take over all the assets of the Kwong Lee Bank and issue out to the shareholders only a proportion.

*Further
examina-
tion.*

Further Xd. by leave of Court : I had much more confidence in our Bank being run by Chinese than by Japanese. 40

*By the
Court.*

Further XXd. by Court : I would have preferred the credit to have remained with the Chartered Bank because we could not touch it anyway.

Wee Hian Teck.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

WEE HIAN TECK (m) affirmed states in English :

*Appellant's
Evidence
recorded by
Blagden, J.*

I am son of Plaintiff. Merchant carrying on business under the name of Tiong Kheng & Co. at 4 Gambier Road, in partnership with my brother-in-law. Live at Mathies Road with Plaintiff. In 1944 I was working in the Plaintiff's Bank. I was insurance clerk. I had authority to sign cheques. I was here when the Japanese came. After they arrived I never went to the office. The Bank was sealed and later opened under
10 the Yokohama Bank. I did not work in it. The Kyoei Bank was formed on October 10th, 1944. I was appointed Manager. I did not ask to be. I was paid a salary. I signed the cheque \$72,792.44. Mr. Lim Thian Liang asked me to do so. He was the cashier in the Kyoei Bank. He said a military officer wanted me to do so. I signed because I had to. I had no account. This was the only cheque I signed. I had had no communication from Plaintiff since December 1941.

No. 42.
Wee Hian
Teck, 21st
January
1953.
Examina-
tion.

If I had been asked to sign a cheque for a larger amount I would still have had to sign because the Japanese asked me to do so. I could not
20 refuse to sign. Had I refused I would have been punished. Japanese punished disobedience. If the cheque had been for a million dollars I would still have signed it. I know nothing about banking. Japanese appointed me Manager of Kyoei Bank. Lam Yat Wing did the job for me. I was just a figurehead. Kempetai sent for me to enquire after Wee Kheng Chiang. They treated him as an enemy. I knew this. I was afraid of the Kempetai.

XAd. : Lim Thian Liang was the cashier in the Kyoei Bank. He had originally been the cashier in the Bian Chiang Bank. He told me the Japanese wanted my signature. He filled in the cheque. He told me the amount represented 30% of a sum of money which was the Bian Chiang
30 Bank balance with the Chartered Bank. It was to be transferred from the Yokohama Specie Bank to the Kyoei Bank. He explained it all at the time. He first said the Japanese wanted it done. I knew that the Kyoei Bank was to be an amalgamation of the three Chinese Banks. I did not know that customers of the three banks would have their accounts transferred. I was there just under a year. I attended every day. I did not notice any of our old customers come in or if they had accounts with the Kyoei Bank. Nobody ever told me. I was suffering from shell shock.

Cross-
examina-
tion.

I agree no Japanese asked me to sign a cheque. I was never threatened by anyone with punishment if I refused to sign this cheque.
40 Lim Thian Liang asked me to sign. He did not say the Japanese wanted my signature on this particular cheque. I did not know Ong Kee Hui had written to Wee Kheng Chiang about his returning to Kuching. I knew Wee Kheng Chiang had been nominated President of Kyoei Bank.

Re-Xd. : I never heard what the military officer said. Liang just said they wanted the cheque signed. I can't remember whether he said they wanted my signature. He did say they wanted it immediately. Lim Thian Liang told me that the Japanese Military wanted the cheque, that it was 30% of the Bian Chiang Bank balance with the Chartered Bank.

Re-
examina-
tion.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

*Appellant's
Evidence
recorded by
Blagden, J.*

He asked me to sign the cheque. He didn't want to take the responsibility of signing himself. I thought if I refused to sign there would be great trouble with Japanese. I was afraid of Japanese so I signed that cheque.

Xd. by Court: I was very bomb-shocked at the time I signed the cheque. I do not think it was a good thing that this money should have been taken out because we, the Bian Chiang Bank, could not use it. I had no feelings regarding my appointment as Manager of Kyohei Bank. Quite indifferent. Just accepted what Japanese said.

Court adjourns to 22nd January, 1953.

No. 42.
Wee Hian
Teck, 21st
January
1953,
Re-
examina-
tion,
continued.
By the
Court.

22nd January, 1953.

10

No. 43.

APPELLANT'S Counsel's Address to the Court.

Seth: Following on cross-examination of Ong Kee Hui yesterday we have examined Kyohei Bank books which show Kyohei Bank had on deposit with Yokohama Specie Bank and another Japanese bank large sums of money which at all times exceeded the Chartered Bank credit. It was at no time necessary to make use of this credit. Apply to re-call witnesses and fresh evidence.

Court: Granted.

No. 43.
Appellant's
Counsel's
Address to
Court,
22nd
January
1953.

No. 44.

Lam Yat Wing (re-called).

20

*Appellant's
Evidence
recorded by
Blagden, J.*

LAM YAT WING—re-called:

No. 44.
Lam Yat
Wing
(re-called),
22nd
January
1953.
Examina-
tion.

I have examined the Kyohei Bank books in the past and again since yesterday's adjournment. I produce Ex. 8 (Ledger of Kyohei Bank—omitted from Record). This shows deposits made by Kyohei Bank with Yokohama Specie Bank and with Nampo Kaihatsu Ginko (Southern Regions Development Bank). I have made translated extracts of these deposits and now produce Ex. 9 (Extracts of Kyohei Bank deposits).

At folio 57 and 58 of Ex. 8 there are records of Kyohei Bank deposits with Yokohama Specie Bank. The deposits were actual cash taken across from the Kyohei Bank to Yokohama Specie Bank. 30

At folio 53 of Ex. 8 there are records of Kyohei Bank deposits with Nampo Kaihatsu Ginko. Kyohei Bank had a current account with Yokohama Specie Bank which is also recorded in Ex. 8 covering folios 1-10 and 121-137.

Last night I went through this account. The Kyohei Bank was *always* in credit with the Yokohama Specie Bank. The lowest credit Kyohei Bank had with the Yokohama Specie Bank during the period of this account was \$108,392.18 on 10th February, 1945.

No. 45.

APPELLANT'S Counsel's Address to the Court.

Seth : Throughout period there was always this current account in credit to an amount never less than \$108,392.18 *plus* these deposits. In paying out customers of Bian Chiang Bank the Kyoei Bank never had to use the Bian Chiang Bank's Chartered Bank credit.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

No. 45.
Appellant's
Counsel's
Address to
Court,
22nd
January
1953.

No. 46.

Lam Yat Wing (re-called).

10 The Kyoei Bank kept the \$900,000 drawn out on 7th September 1945 until after liberation.

XAd : Folios 57 & 58 refer to an account separate from the current account. The \$346,178.91 was paid into the Yokohama Specie Bank current account, 7th September 1945 there would be a credit balance in the current account. This was withdrawn at the same time as the \$900,000 was withdrawn from the deposit account and paid to the Kyoei Bank.

*Appellant's
Evidence
recorded by
Blagden, J.*

No. 46.
Lam Yat
Wing
(re-called,
continued),
22nd
January
1953.

Not Re-Ad.

Cross-
examina-
tion.

No. 47.

Harry Tay.

20 HARRY TAY (m) affirmed states in English : Central West. Employed by Bian Chiang Bank as accounts clerk.

I have examined cash book and journal of Kyoei Bank showing transactions between Kyoei Bank and customers of Bian Chiang Bank. I have prepared a summary of total moneys paid and received by Kyoei Bank with the Bian Chiang Bank customers. I produce Ex. 10 (Summary of moneys received by and paid by Kyoei Bank in pre-occupation accounts of customers with Bian Chiang Bank, with balances from time to time). Ex. 11 (cash book of Kyoei Bank), Ex. 12 (Journal of Kyoei Bank) (both omitted from Record).

No. 47.
Harry Tay,
22nd
January
1953.
Examina-
tion.

30 *Seth* : Maximum excess payments over receipts at any one time equals \$181,978.65. Against this there was always the \$346,178.91 with Yokohama Specie Bank and the deposits (See Ex. 8) (omitted from Record) to offset.

XAd : Over period 9th March-31st August there were only collections ; no payments out.

Cross-
examina-
tion.

Not Re-Ad.

No. 48.

Ong Kee Hui (re-called).

In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.

ONG KEE HUI recalled states in English :

Appellant's
Evidence
recorded by
Blagden, J.

No. 48.
Ong Kee
Hui
(re-called),
22nd
January
1953.
Examina-
tion.

I have examined Ex. 10 ; the large collection on 24th November (\$333,203.54) is explained by certain books transfers Kyoei Bank made in connection with a number of Wee Kheng Chiang's trading accounts. This also explains the equally large payment (\$355,313.76) recorded on that day. Chinese Grocers Association was one of Wee Kheng Chiang's pre-war customers. During occupation Japanese organised this and all other Associations into one Overseas Chinese Association. The component associations were made to join compulsorily. The payment of \$129,912.12 on 29th December 1944 represents credit balance of the Chinese Grocers Association with the Bian Chiang Bank. This credit balance was transferred at request of Overseas Chinese Association to an account with the Kyoei Bank of the Overseas Chinese Association. 10

This figure does not appear in the collections because the Overseas Chinese Association was *not* a pre-war customer. After war the Chinese Grocers Association immediately repudiated this payment ; did not recognise Overseas Chinese Association as superseding them or acquiring any authority to act for them. After negotiations a compromise was reached. Wee Kheng Chiang paid them half. 20

Cross-
examina-
tion.

XXd. : Circumstances under which payment was made showed that some of the officials of the Chinese Grocers Association were also officials of the Overseas Chinese Association and because of that I agree Bian Chiang Bank's contention was that this was a payment to some extent to Chinese Grocers Association.

I agree from the 24th November 1944 entries that Wee Kheng Chiang's personal liabilities were discharged to extent of some \$22,000 odd. But I would stress that the firm showing the debit was a Singapore firm in which Wee Kheng Chiang was only a partner and also the payment is due for revaluation under Debtor & Creditor (Occupation Period) Ordinance. The discharge therefore is only partial as far as Wee Kheng Chiang is concerned. 30

Not Re-Xd. :

Close of evidence for Plaintiff-Appellant.

($\frac{1}{2}$ hour's adjournment at Gould's request.)

RESPONDENT'S Counsel's Address to the Court.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

Gould : Formally tender books of Liquidator of Chartered Bank, including :—

Ex. 13—Ledger.

Ex. 14—Cash Book.

Ex. 15—Brown account book recording payments to persons who took their 30% from Chartered Bank.

Ex. 16—Balance Sheet as at 30th Sept. 1944.

10 Ex. 17—Balance sheet as at 31st October 1944.

Ex. 18A—Notice in Chinese (omitted).

Ex. 18—Translation of Notice in Chinese.

Ex. 19A—Notice in Malay (omitted).

Ex. 19—Translation of Notice in Malay.
(regarding unfreezing of 30% of Chartered Bank balances).

Gould : Refer to page 1 of Ex. 13 which makes it clear that this 30% was a part payment of the credits and *not* a final discharge. See also entry in Ex. 15 under "Balances due to other Banks" (about middle of book).

20 Also on page 4 of Ex. 14.

Ex. 20—List of customers who withdrew their 30% in response to notices.

I call no evidence.

—
No. 49.
Respon-
dent's
Counsel's
Address to
Court,
22nd
January
1953.

No. 50.
FORMAL JUDGMENT.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

IN THE COURT OF APPEAL OF THE SUPREME COURT OF SARAWAK, NORTH BORNEO AND BRUNEL. Holden at Kuching.

No. 50.
Formal
Judgment,
30th
January
1953.

Between WEE KHENG CHIANG . . . Plaintiff-Appellant
and

THE CHARTERED BANK OF INDIA,
AUSTRALIA AND CHINA . Defendants-Respondents

Civil Appeal No. C/21/52.

10

Civil Case No. C/47/52.

30th January, 1953.

The appeal of Wee Kheng Chiang, the above-named Appellant against the judgment of the Honourable Mr. Justice Murray Rowland Fletcher-Rogers dated 5th day of July, 1952 coming on for hearing by way of re-trial on the 21st, 22nd and 23rd days of January, 1953 before the Honourable Mr. Lawrence Delpré Smith acting Chief Justice of the Colony of Sarawak the Honourable Mr. Daniel Richard Lascelles Judge and the Honourable Mr. John Ramsey Blagden acting Judge in the presence of Counsel for the Appellant and for the Respondents and UPON READING the record 20 of appeal filed herein and UPON HEARING Counsel for both parties and the evidence adduced THIS COURT DID ORDER that this appeal should stand for judgment and upon the same standing for judgment this day in the presence of Counsel for the Plaintiff-Appellant and the Respondents THIS COURT DOTH ADJUDGE that the said judgment dated 5th day of July 1952 be reversed AND IT IS ORDERED that the Plaintiff-Appellant do recover against the Defendants-Respondents the sum of \$72,792.44 AND IT IS LASTLY ORDERED that the Plaintiff-Appellant's costs of this appeal and in the Court of first instance be fixed at the sum of \$3,000.00 and be paid by the Defendants-Respondents to 30 the Plaintiff-Appellant.

Entered in Volume . . . Page . . . this . . . day of
195 . . .

By the Court,

Registrar.



No. 51.
JUDGMENT.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

No. 51.
Judgment
of Smith,
Actg. C.J.,
30th
January
1953.

This is an appeal from the judgment of Rogers J. dated the 5th July 1952 dismissing an action in which the Plaintiff/Appellant, Wee Kheng Chiang, claims a sum of \$72,792.44 from the Defendant/Respondent, the Kuching Branch of the Chartered Bank of India, Australia & China. The appeal has taken an unusual course. Mr. Mark Morrison, who appeared for the Plaintiff in the Court below, and all the six witnesses called by the Plaintiff, have filed affidavits to the broad effect that the notes made by
10 the learned Judge do not accurately or in sufficient detail represent the evidence given at the trial or the submissions made by Counsel. At the commencement of the hearing of the Appeal Mr. K. A. Seth, who appears for the Appellant, pressed the Court to consider the affidavits. Mr. Kenneth Gould, who appears for the Respondent, was not prepared to accept the affidavits as evidence, except in the case of the Appellant, Wee Kheng Chiang. Section 30 of the Sarawak, North Borneo & Brunei Court of Appeal Rules 1951 gives the Court of Appeal very wide powers even to the extent of re-hearing the whole case—and, in order to avoid the impression of any injustice, all the witnesses, except the Appellant himself
20 who was absent in Singapore, were re-called. By consent of Counsel, their previous evidence was read out to them and they were at liberty to add to, vary or otherwise explain what they were recorded as having said. Mr. Gould cross-examined them. The record now accurately represents what the witnesses have said.

2. The short history of the case is this. During the last war the Japanese occupied Sarawak and its capital, Kuching. The occupation period extended from the 24th December 1941 to the 11th September 1945, both dates inclusive, as appears from the definition of the expression
30 “occupation period” in Section 2 (1) of the Debtor & Creditor (Occupation Period) Ordinance 1949 (Ordinance No. 18 of 1949). Immediately before the occupation period there were three banks operating in Kuching—the Kuching branch of the Chartered Bank of India, Australia & China, hereinafter referred to as “the Chartered Bank,” which is incorporated in England, and two Chinese Banks, the Kwong Lee Bank Limited and the Bian Chiang Bank. The Appellant, Mr. Wee Kheng Chiang was and still is the sole proprietor of the Bian Chiang Bank and he was the most prominent member of the Chinese business community in Kuching before the war. He also took a leading part in the anti-Japanese organisation known as the China Relief Fund. Immediately before the occupation
40 period the Appellant had a credit balance with the Chartered Bank amounting to \$242,641.48. Seventy per centum of this sum, namely \$169,849.04 had admittedly been repaid to the Appellant. That leaves a balance of thirty per centum of the total credit, namely \$72,792.44 and the question for this Court is whether the Appellant has in the circumstances disclosed by the evidence established his claim that the Chartered Bank is under a legal liability to repay to him this sum of \$72,792.44.

3. When the Japanese authorities occupied Kuching they sealed the banks and appointed a Japanese organisation known as the Yokohama Specie Bank to act as liquidator of the Chartered Bank, the Kwong Lee

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continued.

Bank Limited and the Bian Chiang Bank. The Liquidators' activities were confined to recovering debts owed to these banks. No banking business in the ordinary sense of the word was transacted. This state of affairs continued until the Japanese authorities, after holding public meetings and sounding public opinion, established the Kyoei Bank on the 10th October 1944. The Kyoei Bank purported to be an amalgamation of the Kwong Lee Bank Limited, the Bian Chiang Bank, and another Chinese Bank with headquarters up-country, with which we are not concerned, and of certain other persons.

4. The object of the Kyoei Bank was to re-afford banking facilities 10
and the customers of the Chinese banks were, subject to certain formalities,
at liberty to do business with the Kyoei Bank. The Kyoei Bank was
established in the premises of the Kwong Lee Bank Limited in the Main
Bazaar in Kuching. The Yokohama Specie Bank was established in the
premises of the Chartered Bank. Lim Thian Liang, who was the cashier
of the Bian Chiang Bank, became a clerk in the Yokohama Specie Bank,
and then the cashier of the Kyoei Bank. Wee Hian Teck, who is the
Appellant's son, was employed in his father's bank and was later appointed
to be Manager of the Kyoei Bank, although, to quote his own words, he
knew nothing about banking. His father, Wee Kheng Chiang the 20
Appellant, was in Singapore when the Japanese entered the war and he
did not return to Sarawak until after the liberation. The Japanese
appointed the Appellant in his absence to be the president of the Kyoei
Bank with the hope, no doubt, of establishing public confidence in that
institution. Lim Seong Khan, who was managing director of the Kwong
Lee Bank, became the general manager of the Kyoei Bank. The Kyoei
Bank functioned from the 10th October 1944 to the 11th September 1945,
the last day of the occupation period. The evidence of Ong Kee Hui, the
Appellant's son-in-law, was to the effect that more than \$578,000 was paid 30
in to the Kyoei Bank during that period and that more than \$632,000 was
paid out. The Appellant himself made no withdrawals, but many of his
former customers paid money in and drew money out. The Bank
collapsed on the 11th September 1945, the assets consisting of about a
million dollars in valueless paper currency.

4. On the 16th October 1940, the Appellant addressed a letter to the
Chartered Bank informing it that in future his son, Wee Hian Teck, would
have authority to sign cheques drawn on the Chartered Bank on behalf of
the Bian Chiang Bank. This authority was in addition to the authority
of the Bank cashier, Lim Thian Liang, to sign cheques. Wee Hian Teck 40
used his authority to sign cheques on only one occasion and that was to
sign the cheque for \$72,792.44 on the 10th October 1944. It was a crossed
cheque "Pay Bian Chiang Bank or bearer" drawn on the Chartered Bank
and the circumstances in which this cheque came to be written merit close
attention. In September 1944, a month before the Kyoei Bank was
opened, the Japanese authorities issued notices in Malay and Chinese to
the effect that anyone who held a pre-occupation Credit balance with the
Chartered Bank might withdraw thirty per centum of such credit if he
complied with the procedure laid down by the Japanese. Many persons
availed themselves of this offer. On the 10th October 1944 the Kyoei
Bank was opened with some ceremony. Lam Yat Wing, the general 50

manager of the Kyoei Bank, explains what occurred. "The Yokohama Specie Bank acted as liquidator (of the Bian Chiang Bank). When the Kyoei Bank started, liquidation ceased. The Yokohama Specie Bank handed over all papers to the Kyoei Bank. That was on 10/10/44. They handed over the assets of the Plaintiff's Bank. The Yokohama Specie Bank transferred 30% of all Chinese Banks' credits with the Defendant (Chartered Bank) to the Kyoei Bank. I produce balance sheet, Ex. 2. I took over Ex. 3 from the Yokohama Bank. It was handed to the Vice President (Lim Seong Khan). The Japanese liquidating officer said a

10 cheque must be signed to cover the transfer." Exhibit 3 is headed "Memorandum of Continuance" and is addressed to the Kyoei Bank by the Yokohama Specie Bank. It opens with the words: "All the properties and assets belonging to the Kwong Lee Bank and Bian Chiang Bank as stated in a separate list as from 10th day of the 10th month of Showa 19th year (that is 10/10/44) are transferred to your Bank." The separate list (Ex. 3A) includes an asset of \$72,792.44. The Kyoei Bank then opened an account with the Yokohama Specie Bank for the purpose of carrying on its newly-acquired business. Exhibit No. 5 shows clearly that the assets of the Bian Chiang Bank with the Yokohama Specie Bank which

20 were transferred to the Kyoei Bank on the 10th October 1944 amounted to \$346,178.91. This sum was made up as follows:—

(A)	\$273,386.47
(B)	72,792.44
	\$346,178.91

The former represents the amount which the Yokohama Specie Bank, in its capacity as liquidator of the Bian Chiang Bank, had during the period 24th December 1941 till the 9th October 1944, collected from persons owing money to the Bian Chiang Bank. The second item under paragraph (B) above is thirty per centum of the Bian Chiang Bank's credit with

30 the Chartered Bank, the item in dispute in this case. Lim Seong Khan, the Vice President of the Kyoei Bank, said: "The Japanese brought the balance sheets on 10/10/44. The Japanese officer said all the assets of the Chinese Banks must be handed to the Kyoei Bank. They ordered cheques for 30% of the money in the liquidation account to be made out and the money transferred to Kyoei." The cashier, Lim Thian Liang, says that a Japanese military officer came along on 10/10/44 and that the Vice President (Lim Seong Khan) told him to make out this cheque for 30% of the Bian Chiang Bank's credit with the Chartered Bank. Lim Thian Liang, however demurred at signing the cheque and he asked Wee Hian

40 Teck, the Appellant's son, to do so, as he wanted him, Wee Hian Teck, to take the responsibility. Wee Hian Teck acquiesced and signed. "I signed because I had to," he said. It seems to me that the ineluctable inference to be drawn from this evidence is that the transfer of this credit was made by the Japanese authorities in pursuance of their policy to establish the Kyoei Bank. The cheque was no more than a supporting voucher to support the entries in the account books. I find it impossible to hold on the evidence that Wee Hian Teck took the initiative and drew this cheque voluntarily in response to the offer made by the Japanese to

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release thirty per centum of credits with the Chartered Bank. It is true, as Mr. Gould points out, that Wee Hian Teck signed a form of receipt which refers to the "notice of Commander in Chief of Nada Shudan" dated 16/8/19th year Showa but the Yokohama Specie Bank would naturally require a receipt and a receipt in this form does not in any way alter my opinion of the real nature of the transaction.

5. If I am right in this view. Section 7 (3) of Ordinance No. 18 of 1949 seems to have been drafted precisely to meet a case of this kind. The marginal note to Section 7 indicates that the provisions relate specifically to bank accounts and subsection (3) reads as follows:—

10

"Section 7 (3).—Where during the occupation period the whole or a percentage of the pre-occupation balance of the account of any person with a bank was credited to an account of that person with a Japanese bank or the Kyoei Bank and the account of such person with the first-mentioned bank was debited accordingly, such debit shall be deemed to be a payment to the customer unless he can prove that he did not draw the whole or any portion of the amount so credited to him, or that he obtained no benefit from such credit or part thereof, and in any such case—

- (a) if the preoccupation balance or the percentage thereof, as 20
the case may be, was credited to such person's account with the Japanese bank or the Kyoei Bank, as the case may be, otherwise than at the request or with the consent of such person or his agent, such debit, except to the extent of the face value of any amount which such person has failed to prove was not drawn by him or to the extent that he has failed to prove that he obtained no benefit from such credit, shall be cancelled and shall not be deemed to be a payment to the customer for the purposes of this Ordinance;
- (b) if the pre-occupation balance or the percentage thereof, as 30
the case may be, was credited to such person's account with the Japanese bank or the Kyoei Bank, as the case may be, at the request or with the consent of such person or his agent, one half of the amount which, if paragraph (a) of this subsection applied, would be reinstated to the credit of such person in the first-mentioned bank shall be reinstated to the credit of such person in such bank."

The onus then is on the customer (Wee Kheng Chiang, the Appellant) to prove that he did not draw the whole or any part of the amount so credited to him or that he obtained no benefit from such credit or part 40 thereof. Unless he proves that, he will be regarded as having been paid. There has been much debate on the meaning of the word "or" in the expression "or that he obtained no benefit from such credit", in the last two lines of sub-section (3). Mr. Gould says: "It would be most unfair to allow the customer to be paid again if he in fact obtained a benefit from the credit. Therefore the word "or" must be read conjunctively and the customer must prove both that he did not draw the amount *and* that he obtained no benefit." Mr. Seth says: "If the legislature intended the customer to prove both non-withdrawal and absence of benefit it

would have the simplest thing to have said so and to have used the word "and" instead of "or". I accept Mr. Seth's submission. This is a highly technical ordinance and I should be reluctant to construe "or" as meaning "and" except for some very compelling reasons. The meaning, I think, is this: the customer may have withdrawn the credit but he may have received no benefit from it. For example, a customer might have withdrawn a credit on the 11th September 1945. The Schedule to the Ordinance shows that occupation currency was valueless on that day and thereafter. Such a customer would therefore not be regarded as having been paid. It is conceded here that the Appellant did not draw the whole or any portion of the amount so credited to him. That being so the case falls to be dealt with either under paragraph (a) or paragraph (b) of Section 7 (3).

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

—
No. 51.
Judgment
of Smith,
Actg. C.J.,
30th
January
1953,
continued.

6. If the percentage of the pre-occupation balance was credited to the Appellant's account with the Kyoie Bank "otherwise than at his request, or with the consent of such person or his agent" the credit shall be cancelled and shall not be deemed to be a payment to the customer. I assume for the moment that Wee Hian Teck in signing the cheques was acting within the lawful scope of his authority as agent for his father. I shall revert to this question in a moment. Wee Hian Teck certainly did not request that the credit should be made. But did he consent? He certainly did not demur, nor was he subjected to any specific threat in order to induce him to sign. The fact is, as I understand the case, that he accepted the position and by signing the cheque merely acquiesced in the transfer which had, in fact, already been made. The word "consent" implies that there is a choice of two or more different lines of conduct. Here it was Hobson's choice. Wee Hian Teck acquiesced but he did not consent. In my opinion, therefore, this credit of \$72,792.44 must be cancelled in pursuance of Section 7 (3) (a) of the Ordinance and cannot be regarded as a payment to the customer.

7. In deference to the arguments which have been addressed to the Court, I think I should express an opinion on various other points which were raised. Mr. Seth says that the authority given by the Appellant to his son is determined by reasons of illegality because the transaction involves trading with the enemy. His proposition is this. Wee Kheng Chiang gave his authority on the 16th October 1940, and went to Singapore before the Japanese occupied Kuching on the 24th December 1941. Wee Hian Teck remained in Kuching and on that date, according to Mr. Seth, he became an enemy and therefore since "war dissolves all contracts" the authority was automatically determined by operation of law. No doubt, when Sarawak was occupied, Wee Hian Teck and all other residents in Sarawak were regarded as enemies by the law of England, but can it be said that the law of Sarawak regarded all the inhabitants of the country as enemies? And it is the law of Sarawak with which we are concerned. If Wee Kheng Chiang had gone to a territory occupied by the Japanese no doubt the law of Sarawak would have regarded him as an enemy and the authority which he had given to his son would have been determined forthwith. But he did not go to a Japanese-occupied territory, he went to a British territory which at that time was free. The reasoning in the case of *Hangkam Kwintong Woo versus Liu Lan Fong* [1951] 2 A.E.R. 567

*In the
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—
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January
1953,
continued.

seems to me a sufficient answer to Mr. Seth's contention. But the position changed as soon as the Japanese occupied Singapore in February 1942. Then the Courts of Sarawak would have been bound to hold that all residents in Singapore were technically enemies in law, however loyal the sentiments of the bulk of the inhabitants might have been, and in consequence the Court would have treated the contractual relation between Wee Kheng Chiang and his son as abrogated. Furthermore, when Singapore fell, Wee Kheng Chiang ceased to be "absent" as that word is defined in Section 2 (1), and Section 2 (2) does not therefore operate to preserve the authority. In my view Wee Hian Teck's authority was 10
abrogated and he had no authority to sign the cheque on the 10th October 1944 on behalf of the Appellant. Section 4 of the Ordinance was much debated but since I have held that the transaction under consideration is governed solely by Section 7 (3) I do not think that any comment on Section 4 is called for.

8. There remains the question of interest. The Appellant's agent, Ong Kee Hui by his letter dated 8th March 1950, reserved his right to claim interest at the rate of six per centum from the Respondent on the sum of \$72,792.44 with effect from the 7th March, 1950, the date of a letter from the Respondent in which the latter impliedly declined to pay the amount 20
claimed. Interest is claimed in the particulars of claim, but the subject was not mentioned at the trial and only lightly touched upon at the hearing of the appeal. The legal position seems far from clear as the case of the *London Chatham & Dover Railway Company* versus *The South Eastern Railway Company* [1893] A.C. 429 shows. It is stated at page 175 at Volume 23 of Halsbury's Laws of England, 2nd Edition, that it is assumed that the ruling given in that case does not affect cases where interest is payable by the rules of equity. Section 10 of the Ordinance lays down certain provisions regarding interest but they are not applicable 30
to the case under consideration. In view of the absence of any relevant provision in the Ordinance and the technical nature of the action, I do not feel that the justice of the case demands that interest should be paid here. The claim for interest is therefore refused. The result is that in my opinion this appeal should be allowed with costs here and below. There is no provision for taxation of costs in Sarawak and Counsel have left the question of costs to the discretion of the Court. I assess the total costs both here and below at \$3,000. If the Appellant has paid the costs of \$1,500 awarded by the learned Trial Judge, they must be refunded.

(Sgd.) L. D. SMITH—President.

(Sgd.) D. R. LASCELLES—Judge. 40

(Sgd.) J. R. BLAGDEN—Judge.

Kuching
30th January, 1953.

No. 52.
JUDGMENT.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

IN THE COURT OF APPEAL OF SARAWAK, NORTH BORNEO
AND BRUNEI, holden at Kuching.

WEE KHENG CHIANG Appellant

versus

THE CHARTERED BANK OF INDIA, AUSTRALIA
& CHINA Respondents

No. 52.
Judgment
of Lascelles,
J., 30th
January
1953.

Civil Appeal No. 21/52

10 I have had the advantage of reading the judgments of the learned President of the Court and of my learned brother Judge Mr. Blagden and I concur with these judgments.

In my opinion it is clear from the evidence adduced that the transfer of the \$72,792.44 from the Chartered Bank was not made on the strength of the cheque signed by Wee Hian Teck. This cheque was clearly a mere specie of payment voucher to cover a transaction already effected by the Japanese authorities. This transfer of 30% was not of a similar character to that of the withdrawals made by other pre-war customers of the Chartered Bank in response to the Japanese notice.

20 Mr. Gould for the Respondent has sought to bring this case within Section 4 of the Debtor & Creditor Ordinance. Murrey-Aynsley, C.J., referring to the Singapore Debtor & Creditor Ordinance in the case of *Chua Yam Quee versus Peena Moona Mohamed Abdul Hamid and another* (1950) 16 No. 5 M.L.J. page 141 at page 142 in his judgment stated as follows : " It should be remembered that all the provisions of the Ordinance are extremely artificial and must be applied quite literally." The Sarawak Ordinance is a similar Ordinance and in my opinion to bring the case within Section 4 would be to interpret the Ordinance in a manner far from literal.

30 The marginal note to Section 7 reads " Bank Accounts " and after a careful study of the Section it appears to me that this case falls fairly and squarely within sub-section (3) of that section. Subsection (2) of Section 7 which is in any case subject to sub-section (3) was advanced by Mr. Seth for the Appellants as the appropriate Section, but I consider that this is too constricted a view of the transaction and reject this argument for the Appellant.

Mr. Seth for the Appellant contended that the word " or " in Section 7 (3) (a) should be construed literally, that is disjunctively and not conjunctively, and I agree with this argument.

40 (Sgd.) D. R. LASCELLES,
Judge.

Kuching,
30th January, 1953.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

**No. 53.
JUDGMENT.**

IN THE COURT OF APPEAL OF SARAWAK, NORTH BORNEO
AND BRUNEI, holden at Kuching.

No. 53.
Judgment
of Blagden,
J., 28th
January
1953.

WEE KHENG CHIANG Appellant

versus

THE CHARTERED BANK OF INDIA, AUSTRALIA
& CHINA Respondent.

Civil Appeal No. 21/52

This case has raised difficult points of construction on Sections 2 (2), 10
4 and 7 of the Debtor & Creditor (Occupation Period) Ordinance 1949.
I have had the opportunity of reading the judgment of the learned Acting
Chief Justice, with which I concur, and would add only a few observations
as to these Sections.

Section 2 (2) which may shortly be described as the agency provision
operates for all practical purposes and in so far as it is relevant to this case
to ratify the acts of an agent in Sarawak carried out in pursuance of that
agency during the occupation period and whilst his principal was absent,
notwithstanding that the agency had been determined by operation of
law as a result of the occupation of Sarawak. "Absent" is defined in 20
Section 2 (1) as meaning "absent from territories under the sovereignty,
or in the occupation, of the Occupying Power." In this case Appellant
was the Principal and Wee Hian Teck the Agent, and the problem has
resolved itself into answering two questions.

(1) Was the agency determined by operation of law as a result
of the occupation of Sarawak ?

(2) If so, were subsequent acts by Wee Hian Teck ratified by
virtue of Section 2 (2) of the Ordinance ?

In answering the first of these questions it is fundamental that the
problem must be considered as from the point of view of the law in Sarawak, 30
embodying as it does a great deal of the common law of England, and not
from the point of view of the law in England or in Singapore. If this
viewpoint is maintained throughout the answer to these questions becomes
fairly simple.

On 24th December 1941, when Sarawak was occupied Singapore
was not. Wee Hian Teck, the agent was in Sarawak ; the Appellant, the
Principal, was in Singapore. From the point of view of the law in Sarawak,
there was no reason to consider Appellant an enemy of Sarawak ; he was
not resident in enemy or enemy-occupied territory. Consequently the
agency was not abrogated. But when Singapore itself was occupied a few 40
weeks later the position altered ; now Appellant became resident in
enemy-occupied territory and had to be regarded as an enemy of Sarawak.
It was this occupation of Singapore, and not the occupation of Sarawak,
which operated to abrogate the agency, which is not the situation envisaged

in Section 2 (2) (a). But in any case once Singapore was occupied the Appellant was no longer absent "from territories under the sovereignty or in the occupation of the Occupying Power"—Singapore having become one of those territories. For these reasons, in my view, Section 2 (2) of the Ordinance could not operate to ratify the acts of Wee Hian Teck executed under his former authority from the Appellant, and on 10th October 1944, Wee Hian Teck no longer had any authority to act on behalf of the Appellant.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

No. 53.
Judgment
of Blagden,
J., 28th
January
1953,
continued.

10 Mr. Gould has urged that Section 4 of the Ordinance which deals with "Discharge during occupation period of pre-occupation debts" applies in this case. Had there been no Section 7 in this Ordinance I think there would have been some force in his argument. But Section 7 is expressed to deal with "Banking Accounts" and it seems to me inescapable that it was framed to cover precisely such a transaction as is found in the present case. If Section 4 was meant to cover such a transaction then there would seem to be little object in drafting Section 7 at all.

20 As to Section 7, Mr. Seth has submitted that his case falls under Section 7 (2). I cannot agree. The transaction must be looked at as a whole and if it is looked at as a whole it is clear that what happened was that a percentage of the pre-occupation balance of the account of the Appellant with the Chartered Bank was credited to an account of the Appellant with the Kyoei Bank. That is precisely the transaction envisaged by Section 7 (3). The fact that in the course of its journey to Kyoei Bank this percentage passed through the hands of the Liquidation Officer does not in my view bring the case within Section 7 (2), although of course it would have been otherwise if it had stopped there.

30 I have nothing to add to the learned Acting Chief Justice's judgment in regard to the construction of the word "or" in Section 7 (3) in reference to the burden of proof cast on the Appellant to show that he did not withdraw the transferred credit "or" obtain any benefit from it save to quote the words of Murray-Aynsley, C.J., on the Debtor & Creditor (Occupation Period) Ordinance in *Chua Yam Quee versus Pccna Moona Mohamed Abdul Hamid and another* (1950) 16 No. 5 M.L.J., page 141, at page 142: "It should be remembered that all the provisions of this Ordinance are extremely artificial and must be applied quite literally."

40 On the question of the 6% interest claimed by the Appellant I apprehend that what Appellant is asking for is damages for being unlawfully deprived of his money from the time Respondents in correspondence refused to pay the sum claimed. I cannot forget, however, that there was some evidence that Appellant had obtained and availed himself of some benefit from this money, notwithstanding that he could not use it himself, by its use to discharge at least some part of his obligations to his customers, and in these circumstances I think it would be inequitable to award him any damages in addition to the amount claimed, even although Appellant did not obtain any benefit during the period for which the 6% is claimed.

(Sgd.) J. R. BLAGDEN,
Judge.

Kuching,
28th January, 1953.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

COURT NOTES on Application for Final Leave to Appeal to Her Majesty in Council.

The Honourable Mr. JUSTICE L. D. SMITH.

No. 54.
Court
Notes on
Applica-
tion for
Final Leave
to Appeal
to Her
Majesty in
Council,
8th
December
1954.

CHARTERED BANK OF INDIA, AUSTRALIA
AND CHINA Applicant

versus

WEE KHENG CHIANG Respondent.

Civil Appeal No. 21/52

8/12/54

In Chambers

10

I. C. M. Pemberton, Accountant, Chartered Bank—Applicant.

No one for Respondent.

Tan : Chief Registrar :

Tan : I produce Rodyk and Davidson's letter No. KG/JG/439 of 2/12/54 in reply to my C.A.21/52 of 14/10/54. I also produce two agreed type-written copies of the Record of Proceedings—Part I and Part II, that is, four volumes in all. I propose to send one copy of the Record of Proceedings (Parts I and II) to the Registrar of the Privy Council, Downing Street, London, S.W.1, in pursuance of Rule 9 (3) of the Sarawak, North Borneo and Brunei (Appeal to Privy Council) Order in Council, 1951. 20 The second copy of the Record (Parts I and II) will be retained in this office.

Pemberton : Nothing to say.



No. 55.

ORDER granting Final Leave to Appeal to Her Majesty in Council.

Order :

Final leave to appeal to the Privy Council granted. The Chief Registrar will please transmit as early as practicable a certified true copy of the record of the proceedings (Parts I and II) to the Registrar of the Privy Council, Downing Street, London, S.W.1. The Chief Registrar will also comply with Section 12 (2) of the Sarawak, North Borneo and Brunei (Appeal to Privy Council) Order in Council, 1951, with regard to the certificate that the Respondent has notice of the granting of final leave to appeal.

(Sgd.) L. D. SMITH,
Judge.

Kuching, 8th December, 1954.

- Copies to :
1. Mr. K. A. Seth, c/o Sisson & Delay, French Bank Building, Singapore, 1.
 2. Mr. K. Gould, c/o Rodyk & Davidson, Chartered Bank Chambers, Singapore.
 3. The Manager, Chartered Bank of India, Australia, and China, Kuching.
 4. Mr. Wee Kheng Chiang.
 5. Mr. T. G. Dunbar, Advocate, Kuching.
 6. Docket.
 7. File.

*In the
Court of
Appeal of
Sarawak,
North
Borneo and
Brunei.*

No. 55.
Order
granting
Final Leave
to appeal
to Her
Majesty in
Council,
8th
December
1954.

20

JOINT Agreed Statement of Facts.

*In the
High
Court at
Kuching.*

No. 56.
Joint
Agreed
Statement
of Facts
(undated).

IN THE HIGH COURT OF SARAWAK, NORTH BORNEO AND
BRUNEI at Kuching.

JOINT ADMISSIONS

in cause

WEE KHENG CHIANG Plaintiff

versus

CHARTERED BANK OF INDIA, AUSTRALIA &
CHINA Defendant. 10

The Plaintiff and the Defendant concur in stating to the Court :—

1. That the Plaintiff carried on a banking business called “ Bian Chiang Bank ” in Kuching for some time up to and including 23rd December 1941 or otherwise up to the time of Japanese occupation.

2. That on the close of business on 23rd December 1941 or otherwise up to the time of Japanese occupation the Defendant was indebted to the Plaintiff in the sum of \$242,641.48 which stood at the credit of an account in the name of Bian Chiang Bank with the Defendant’s branch bank in Kuching, which branch is hereinafter referred to as “ the Chartered Bank.”

3. That on 24th December 1941 the Bian Chiang Bank did not open 20 for business having been closed down by the Japanese authorities and from such dates was under the control of the Japanese.

4. That the Defendant is a Company incorporated under Royal Charter in England and throughout the enemy occupation of Sarawak the control of the Defendant Company remained in England and the Bank carried on prior to Japanese occupation by the Defendant was a branch business and throughout the Japanese occupation the Defendant had no representative functioning in Sarawak.

5. That immediately upon occupying Kuching the Japanese “ froze ” all credit balances of customers with inter alia the Bian Chiang Bank and 30 the Chartered Bank.

6. That between the middle of 1942 and 10th October 1944 the Yokohama Specie Bank (hereinafter called the Yokohama Bank) purported to act as liquidators of the Bian Chiang Bank and the sums which were realised by the Yokohama Bank from assets of the Bian Chiang Bank were credited to the Bian Chiang Bank liquidation account with the

Yokohama Bank. After numerous entries the balance at the credit of the said account immediately before making the entries hereinafter mentioned was \$273,386.47.

*In the
High
Court at
Kuching.*

7. That from the middle of 1942 at least up to 30th November 1944 the Yokohama Bank acted as liquidators of the Chartered Bank and opened an account called the Chartered Bank liquidation account.

No. 56.
Joint
Agreed
Statement
of Facts
(undated),
continued.

8. That on or before the 10th October 1944 there was established the Bank known as Kyoei Bank under directions of the Japanese Authorities and a document called the "Bank Order" was filed in the relevant department about December 1944.

9. That under date 10th October 1944 the following entries appear in the respective accounts referred to hereafter :—

(1) The Chartered Bank liquidation account was debited with \$72,792.44 (being an amount equal to 30% of the said \$242,641.48 which stood at the credit of the Bian Chiang Bank account with the Chartered Bank).

20

(2) The Bian Chiang Bank liquidation account was credited with this \$72,792.44 making with the above \$273,386.47 (obtained from realisation of assets less deductions) a total of \$346,178.91 at the credit of this account.

(3) The Bian Chiang liquidation account was debited with this \$346,178.91 to close same.

(4) The Kyoei Bank was credited with the said sum of \$346,178.91.

10. A translation of the opening entries made in the books of the Kyoei Bank is annexed hereto and marked "Appendix 'A'".

11. The difference between the said sum of \$242,641.48 which stood at the credit of the Bian Chiang Bank account with the Chartered Bank and the said sum of \$72,792.44 debited and credited as mentioned above, namely the sum of \$169,849.04 has been paid by the Defendant to the Plaintiff.

30

APPENDIX "A" to Agreed Statement of Facts.

Appendix "A."

No. 57.
Appendix
"A" to
Agreed
Statement
of Facts
(undated).

JOINT ADMISSIONS.

TRANSLATION OF OPENING ENTRIES MADE IN BOOKS OF KYOEI BANK.

By Kwong Lee Bank—Transfer from Yokohama Specie Bank	\$370,177.74	
Bian Chiang Bank— do.	346,178.91	
Yokohama Specie Bank contra entry reversed ..	716,356.65	
Liquidation "A"—		10
Kwong Lee Current a/c Balances	345,748.07	
Bian Chiang " " "	988,765.18	
Liquidation "B"—		
Kwong Lee " " "	125,218.94	
Bian Chiang " " "	56.48	
Liquidation "C"—		
Kwong Lee " " "	460,570.95	
Bian Chiang " " "	238,452.13	
Liquidation "B"—		
Kwong Lee other balances	125,218.94	20
Bian Chiang " " "	56.48	
Liquidation "C"—		
Kwong Lee temporary receipt	460,570.95	
Bian Chiang " " "	238,452.13	
Wah Tat " " "	99,894.20	
Sibu Branch—		
Kwong Lee C/A balances	152,837.48	
Wah Tat " " "	26,342.05	
Kwong Lee other balances	4,128.62	
Wah Tat " " "	39,145.72	30
Capital—		
Kwong Lee Bank 4031 shares	201,550.00	
Bian Chiang 2154 "	157,700.00	
Wah Tat	40,750.00	
Moveable Assets—		
Kwong Lee balance with Oversea Chinese Bank, Singapore	406.16	
T. T. Kwong Lee	50,000.00	

	To Yokohama Specie Bank—Transfer of Bian Chiang and Kwong Lee	\$716,356.65	<i>In the High Court at Kuching.</i> — No. 57. Appendix "A" to Agreed Statement of Facts (undated), <i>continued.</i>
	Kwong Lee—contra entry reversed	370,177.74	
	Bian Chiang— " " "	346,178.91	
	Liquidation " B "—		
	Kwong Lee contra entry reversed	125,218.94	
	Bian Chiang contra entry reversed	56.48	
	Liquidation " C "—		
	Kwong Lee contra entry reversed	460,570.95	
10	Bian Chiang contra entry reversed	238,452.13	
	Yokohama Specie Bank—		
	Kwong Lee Cash	370,177.74	
	Bian Chiang Cash	346,178.91	
	Liquidation Overdrafts—		
	Kwong Lee	324,854.78	
	Bian Chiang	734,917.13	
	Moveable Assets—		
	Kwong Lee balance with Oversea Chinese Bank Singapore	406.16	
20	T. T. Kwong Lee	50,000.00	
	Sibu Branch—		
	Kwong Lee balance with Yokohama Specie Bank	48,834.31	
	Wah Tat do.	32,961.96	
	Kwong Lee overdrafts	288,286.07	
	Wah Tat overdrafts	168,187.69	
	Kwong Lee fixed assets	94,000.00	
	Wah Tat " "	4,000.00	
	Wah Tat moveable assets	982.32	
	Immoveable Assets—		
30	Kwong Lee	110,000.00	
	Bian Chiang	264,262.75	
	Moveable Assets—		
	Kwong Lee	2,495.00	
	Bian Chiang	30,715.00	
	Investments—		
	Bian Chiang share in United Chinese Bank	7,500.00	
	Bian Chiang Bukit Yong Gold Mining	1,300.00	
	Bian Chiang Sarawak Gold Mining	100.00	
	Oversea Chinese Bank, Singapore—Kwong Lee balance	406.16	
40	Finance Department <u>Kuching—Kwong Lee T. T.</u>	50,000.00	

No. 58 (a).
Letter,
Wee Kheng
Chiang to
Chartered
Bank of
India,
Australia
& China,
16th
October
1940.

No. 58 (a).

AGREED CORRESPONDENCE.

LETTER, Wee Kheng Chiang to Chartered Bank of India, Australia & China.

16th October, 1940.

The Agent,
Chartered Bank, Kuching.

Dear Sir,

We beg to inform you that in future Mr. Wee Hian Teck also has authority, besides Mr. Lim Thian Liang, to sign all cheques drawn on your bank on our behalf, and whose specimen of signature is shown below. 10

Yours faithfully,

For BIAN CHIANG BANK,

(Sgd.) WEE KHENG CHIANG,
Manager.

No. 58 (b).
Cheque in
favour of
Bian Chiang
Bank,
10th
October
1944.

No. 58 (b).

CHEQUE in favour of Bian Chiang Bank.

No. 53959.

10th October 19 2604

To the CHARTERED BANK OF INDIA, AUSTRALIA & CHINA

Pay Bian Chiang Bank or Bearer Dollars Seventy-two thousand seven hundred & ninety-two & Cents forty only. 20

(Chop) For BIAN CHIANG BANK

\$72,792.44

(Sgd.) WEE HIAN TECK,
for Manager.

No. 58 (c).

RECEIPT of Bian Chiang Bank to Yokohama Specie Bank.

RECEIPT CERTIFICATE

Amount* \$72,792.44 which is refund of 30% from Chartered Bank* in accordance with notice of Commander in Chief of Nada Shudan dated 16/8/19th year Showa. This is the deposit in my name with the Chartered Bank in liquidation. Such has been received.

10th October 19th year of Showa.

Name : WEE HIAN TECK (Sgd.)
for BIAN CHIANG BANK.
Address : No. 60 Main Bazaar.

To : Yokohama Specie Bank,
(Kuching Branch)
Liquidators of Chartered Bank.

Note in Chinese.**

No. 58 (c).
Receipt of
Bian Chiang
Bank to
Yokohama
Specie
Bank,
10th
October
1944.

No. 58 (d).

LETTER, Bian Chiang Bank to Chartered Bank of India, Australia & China.

27th February 1950.

The Manager,
Chartered Bank,
Kuching.

Dear Sir,

Pre-occupation Account.

Pre-war we had deposited with you on current account the sum of \$242,641.48 of which \$169,849.04, being 70% thereof, has since been repaid to us.

The remaining 30%, i.e. \$72,792.44, was during the Japanese occupation placed to the credit of our account with the Kyoei Bank. This transfer to the Kyoei Bank was made neither at the request nor with the consent of ourselves or any agent of ours nor was any of this sum of \$72,792.44 at our credit with the Kyoei Bank ever drawn and we obtained no benefit from such credit. In these circumstances we claim reinstatement to the full extent of \$72,792.44 by virtue of section 7 (3) of the Debtor & Creditor (Occupation Period) Ordinance 1949.

No. 58 (d).
Letter,
Bian Chiang
Bank to
Chartered
Bank of
India,
Australia
& China,
27th
February
1950.

No. 58 (d).
Letter,
Bian Chiang
Bank to
Chartered
Bank of
India,
Australia
& China,
27th
February
1950,
continued.

If, as we imagine, you wish to examine the books of the Kyoei Bank in order to satisfy yourselves as to the accuracy of our statement that no part of the above credit was ever drawn, we shall be pleased to arrange for them to be made available for your inspection on your advising us of a time suitable to you.

We shall be glad to know in course that your admit our claim as above.

Yours faithfully,

For BIAN CHIANG BANK,

(Sgd.) ONG KEE HUI,
(Manager).

10

No. 58 (e).
Letter,
Chartered
Bank of
India,
Australia
& China to
Bian Chiang
Bank,
3rd March
1950.

No. 58 (e).

LETTER, Chartered Bank of India, Australia & China to Bian Chiang Bank.

No. 437.

The Chartered Bank of India,
Australia & China,

Kuching, 3rd March 1950.

The Manager,
Bian Chiang Bank,
Kuching.

Dear Sir,

20

Pre-occupation Account.

We acknowledge receipt of your letter of 27th ultimo with regard to a sum of \$72,792.44 which you state was part of a sum of \$242,641.48 standing to your credit in our books at the date of the occupation of Sarawak by the Japanese and which was transferred to your credit with the Kyoei Bank during the occupation. You do not state whose authority it was made, why it was made and when it was made; we shall be glad to have full particulars of the transaction bearing in mind that the onus of proof is on you under Section 7 (3), (3A) and (3B) of the Ordinance quoted by you.

Until such proof is produced to our satisfaction, we much regret that we are unable to admit any liability to pay you the sum claimed. 30

Yours faithfully,

(Sgd.) MACKAY,
Manager.

No. 58 (f).

LETTER, Bian Chiang Bank to Chartered Bank of India, Australia & China.

6th March 1950.

No. 58 (f).
 Letter,
 Bian Chiang
 Bank to
 Chartered
 Bank of
 India,
 Australia
 & China,
 6th March
 1950.

The Manager,
 The Chartered Bank,
 Kuching.

Dear Sir,

Pre-occupation Account.

We have your letter of 3rd March 1950.

- 10 Section 7 of the Ordinance concerns itself with cases where during the occupation the whole or a percentage of the pre-occupation balance of the account of any person with a bank was credited to an account of that person with a Japanese Bank or the Kyoei Bank and the account of such person with the first mentioned bank was debited accordingly. The questions of how the transfer was effected, who made it and on whose authority are relevant only so far as they tend to show that the transfer was made at the request of or with the consent of us or our agent but that is a matter for yourselves to prove if you do in fact contend that the transfer was made at our request or with our consent. It does not appear to us to
- 20 matter when the transfer was made or why so long as it was in fact made during the occupation but if you deny that it was then made Section 7 does not apply and we shall be glad to have payment of the \$72,792.44 forthwith.

- The only onus of proof thrown on us (provided you agree the money was transferred during the Japanese Occupation) is to show either that we did not draw the money transferred or that we obtained no benefit from it and this we shall do. It was in order to save unnecessary litigation that we proposed to make the books of the Kyoei Bank available to you, it being quite clear therefrom that we neither drew the money nor obtained
- 30 any benefit from it.

Yours faithfully,

(Sgd.) ONG KEE HUI,

Manager.

No. 58 (g).
 Letter,
 Chartered
 Bank of
 India,
 Australia
 & China to
 Bian Chiang
 Bank
 7th March
 1950.

No. 58 (g).

LETTER, Chartered Bank of India, Australia & China to Bian Chiang Bank.

No. 463

The Chartered Bank of India,
 Australia & China,
 Kuching, 7th March 1950.

The Manager,
 Bian Chiang Bank,
 Kuching.

Dear Sir,

Pre-occupation Account.

10

We acknowledge the receipt of your letter of 6th instant and note what you write.

Reverting to your letter of 27th ultimo in which you advise us of a so called credit to your account with the Kyoei Bank of \$72,792.44 during the Japanese occupation, it was with a view to getting as full information as possible of this item that we wrote you in our letter of the 3rd instant.

We note that you are not disposed to give that information.

The only item we can trace from the books of the Yokohama Specie Bank Limited, the Liquidators, is a direct payment to you of the sum mentioned.

20

There is no mention of a transfer to the Kyoei Bank for your credit.

Yours faithfully,

(Sgd.) MACKAY,
 Manager.

No. 58 (h).

LETTER, Bian Chiang Bank to Chartered Bank of India, Australia & China.

9th March, 1950.

The Manager,
Chartered Bank,
Kuching.

No. 58 (h).
Letter,
Bian Chiang
Bank to
Chartered
Bank of
India,
Australia
& China,
9th March
1950.

Dear Sir,

Pre-occupation Account

We have you letter of 7th instant.

10 Since your alleged payment to us, which we deny, will you please state on what grounds you so allege. As we were in liquidation during the Japanese occupation we should like to know :—

- (1) How the payment was made.
- (2) What person purporting to act on our behalf withdrew the money.
- (3) When it was made.
- (4) What was that person's authority to act for us.

Will you please give this information and make available for our inspection any documentary evidence in support. The onus of proof of
20 payment we think you will agree, lies upon yourselves.

We are treating your letter as a refusal to pay on demand what is due to us and reserve the right to claim interest at the legal rate of 6% per annum from the date of your letter till payment.

Yours faithfully,

(Sgd.) ONG KEE HUI,
Manager.

No. 58 (i).
 Letter,
 Chartered
 Bank of
 India,
 Australia
 & China to
 Bian Chiang
 Bank,
 9th March
 1950.

No. 58 (i).

LETTER, Chartered Bank of India, Australia & China to Bian Chiang Bank.

No. 503.

9th March 1950.

The Manager,
 Bian Chiang Bank,
 Kuching.

Dear Sir,

Pre-occupation Account

We acknowledge receipt of your letter of 9th instant.

10

In reply thereto, we have to advise, as previously stated in our letter of 7th idem, that according to the evidence at our disposal taken from the books of the Liquidator the payment of \$72,792.44 appears to be a direct payment to you.

The grounds why we think this is so are those already mentioned and the fact that we hold a cheque drawn by you for a similar amount payable to yourselves or bearer and signed on your behalf by Wee Hian Teck.

You are at liberty to examine the above evidence at any time convenient.

20

Yours faithfully,

(Sgd.) MACKAY,
 Manager.

No. 58 (j).

LETTER, Bian Chiang Bank to Chartered Bank of India, Australia & China.

17th March, 1950.

No. 58 (j).
Letter,
Bian Chiang
Bank to
Chartered
Bank of
India,
Australia
& China,
17th March
1950.The Manager,
The Chartered Bank,
Kuching.

Dear Sir,

Pre-occupation Account

We duly received your letter of 9th instant and have since inspected
10 the cheque and letter which you showed us.

The cheque on which you rely was signed by Mr. Wee Hian Teck for the purpose of evidencing the transfer of our account. This is apparent from the fact that the cheque is crossed and we would point out that it is not indorsed. In fact payment was not received by us but the credit was transferred first to our liquidators' account and then, on the same day, together with other sums at the credit of our liquidators' account, to the Kyoei Bank.

We should perhaps mention that at the time Mr. Wee Hian Teck was an official of the Kyoei Bank and in signing the cheque he was carrying
20 out the instructions of his superiors which he was, under penalty, bound to obey. (See Japanese Bank Order sections 22 and 23). In any case his former authority from our Mr. Wee Kheng Chiang terminated when our Bank was taken over by the liquidation officer at the beginning of the Japanese occupation.

Yours faithfully,

for BIAN CHIANG BANK,

(Sgd.) ONG KEE HUI,

Manager.

No. 58 (k).
 Letter,
 Chartered
 Bank of
 India,
 Australia
 & China to
 Bian Chiang
 Bank,
 20th March
 1950.

No. 58 (k).

LETTER, Chartered Bank of India, Australia & China to Bian Chiang Bank.

No. 605

20th March, 1950.

The Manager,
 Bian Chiang Bank,
 Kuching.

Dear Sir,

We have received your letter of 17th instant from which we note that, after examining the paid cheque which is held by us and the letter of Authority from which the officer who signed the cheque on your behalf had authority to draw, you now admit that the cheque was signed for the purpose of evidencing a withdrawal of part of your funds held by this Bank namely \$72,792.44. 10

This admission quite contradicts what you wrote in your letter of 27th February, wherein you tried to convince us that the sum appearing in the books of the Kyoei Bank was a transfer made neither at your request nor with your consent or the consent of any agent of yours.

As the officer who signed the cheque is to all intents and purposes still employed by you being now with Wee Kheng Chiang & Co. Ltd., we submit that it must or should have been well known to you. 20

You now imply that this person had no authority to sign on your behalf as his authority terminated when your Bank was put under the charge of a so-called liquidator.

We submit that as far as your account with this Bank was concerned, and please bear in mind that we were also in charge of Liquidators, the Liquidators acted correctly and in accordance with usual banking procedure of accepting the cheque drawn and signed by the duly appointed person authorised to sign, which authority they held on file. Furthermore, this authority was never cancelled by your Bank or Mr. Wee Kheng Chiang, the proprietor who were not absent in terms of the Ordinance. 30

If you admit the cheque was deliberately signed for the purpose of evidencing the transfer, it is surely inconsistent to say that the person signing the cheque had no authority to do so.

Now that it is certain that you issued a cheque and admit having done so for the sole purpose of obtaining or evidencing the fact that you were in agreement and had no objection to the withdrawal of such fund covered by the cheque, we submit that the transaction as far as the Liquidators of this Bank were concerned and as borne out by the Evidence in their books was a payment to you.

The cheque in question was a bearer cheque and therefore required no endorsement and we hold your receipt for having received the amount drawn for.

Section 7 subsection (2) which incidentally is also governed by subsection (3) A & B does not in our opinion apply. We are quite willing however, to consider the transaction as coming under Section 7 subsection 3B and are prepared to pay you half of the amount provided that you satisfy us that you obtained no benefit from the amount withdrawn.

No. 58 (k).
Letter,
Chartered
Bank of
India,
Australia
& China to
Bian Chiang
Bank,
20th March
1950,
continued.

Yours faithfully,

10

(Sgd.) MACKAY,
Manager.

No. 58 (l).

LETTER, Bian Chiang Bank to Chartered Bank of India, Australia & China.

23rd March, 1950.

The Manager,
The Chartered Bank,
Kuching.

No. 58 (l).
Letter,
Bian Chiang
Bank to
Chartered
Bank of
India,
Australia
& China,
23rd March
1950.

Dear Sir,

Pre-occupation Account.

20

We have your letter of 20th instant.

30

You overstate the extent of our "admissions" in our letter of 17th instant. We did not admit that the cheque was signed for the purpose of evidencing a *withdrawal* but stated it was for evidencing a *transfer* which is a different matter. You call the cheque "the paid cheque" but that is in dispute between us. You further mention the "letter of authority from which the officer who signed the cheque had authority to draw" but we made it clear that our contention is that this authority had already terminated. It hardly remains therefore to consider how far the admissions which you incorrectly impute to us contradict our letter of 27th February but since you seem to doubt our good faith in writing that letter we may say that the writer was not then aware that there ever had been the cheque you showed us. Whether it should have been known to us is a matter of opinion but this hardly affects the position between us.

No. 58 (1).
 Letter,
 Bian Chiang
 Bank to
 Chartered
 Bank of
 India,
 Australia
 & China,
 23rd March
 1950,
continued.

In spite of the existence of the cheque we still insist that there was a transfer made neither at our request nor with our consent. We thought our last letter had made that quite clear. It is not necessary to allege that the Liquidators acted improperly or that our Mr. Wee Kheng Chiang cancelled the authority. Our contention was that this authority terminated by the fact of our Bank being taken over by the liquidation officer.

We failed to understand why you should think it inconsistent to say that the cheque was signed for the purpose of evidencing the transfer and to say also the person signing it had no authority. The purpose was that of the Yokohama Specie Bank which acted as liquidators of your bank and our banks. It was not our purpose and in fact we knew nothing about the cheque. You say that we admit we issued the cheque for the purpose of evidencing that we were in agreement and had no objections to the withdrawal of such funds. If you re-read our letter you will see we admitted no such thing. We denied the authority at that time of Mr. Wee Hian Teck to sign the cheque and had, we thought, made it clear that his position was such, as an official of the Kyoei Bank, that there could arise no question of *his* consent, and accordingly of *our* consent even assuming he still had any authority from us. We deny that we ever consented to the transfer and look to you for payment of the full amount. 10 20

Since receiving your letter under reply we have obtained a copy of the receipt you mention. It also was signed by Mr. Wee Hian Teck and what we have said before regarding his signing of the cheque applies here also. We repeat that we did not receive the money nor did Mr. Wee Hian Teck and he was acting under Japanese orders and had in any case no longer any authority from us.

Yours faithfully,

For BIAN CHIANG BANK,

(Sgd.) ONG KEE HUI. 30

No. 58 (m).

LETTER, Chartered Bank of India, Australia & China to Bian Chiang Bank.

No. 904.

27th April, 1950.

The Manager,
Bian Chiang Bank,
Kuching.

No. 58 (m).
Letter,
Chartered
Bank of
India,
Australia
& China to
Bian Chiang
Bank,
27th April
1950.

Dear Sir,

With reference to your letter of 23rd ultimo, we have considered
10 your letter under reply at some length.

We cannot accept your contention that Mr. Wee Hian Teck had no authority to draw the cheque and to give the receipt for the amount of the withdrawal and we do not agree that his authority had been determined by any event during the Occupation.

We are therefore not prepared to admit any liability in this matter.

Yours faithfully,

(Sgd.) MACKAY,
Manager.

No. 58 (n).
 Letter,
 Mark
 Morrison
 & Co. to
 Chartered
 Bank of
 India,
 Australia
 & China,
 6th July
 1950.

No. 58 (n).

LETTER, Mark Morrison & Co. to Chartered Bank of India, Australia & China.

6th July 1950.

The Manager,
 Chartered Bank,
 Kuching.

Dear Sir,

Bian Chiang Bank

We have instructions from Mr. Wee Kheng Chiang the sole proprietor of the above Bank, to sue your bank for the \$72,792.44 balance 10 of the pre-Occupation account in name of the above bank with your bank.

As you are doubtless aware our client, although he has a place of residence in Kuching, normally resides in Singapore where he has business interests and as the only facts to prove which his attendance as a witness would be required are either within the knowledge of, or can readily be verified by, your bank we suggest that these facts be admitted by your bank in order to save the costs of our client's attendance as a witness.

We annex a list of these facts and shall be glad to know whether your bank is prepared to admit them or any of them. If they are not admitted our client will ask for the costs of his attendance as a witness whatever the 20 result of the action.

Yours faithfully,
 (Sgd.) MARK MORRISON & CO.

FACTS REFERRED TO ABOVE.

1. That at the date of the occupation of Kuching by the Japanese Mr. Wee Kheng Chiang was sole proprietor of the Bian Chiang Bank.

2. That at the date of the occupation of Kuching by the Japanese there stood at the credit of an account in the name of the Bian Chiang Bank with your bank the sum of \$242,641.48.

3. That Mr. Wee Kheng Chiang was in Singapore between the date 30 of the occupation of Kuching by the Japanese and the date of the occupation of Singapore by the Japanese, or at some time between these two dates.

No. 58 (o).

LETTER, Chartered Bank of India, Australia & China to Mark Morrison & Co.

No. 557.

13th July, 1950.

Messrs. Mark Morrison & Co.,
Solicitors,
34 India Street,
Kuching.

No. 58 (o).
Letter,
Chartered
Bank of
India,
Australia
& China to
Mark
Morrison
& Co.,
13th July
1950.

Dear Sirs,

Bian Chiang Bank.

10 We are in receipt of your letter of 6th instant wherein you advise us that you have been instructed by the proprietor of the above concern to sue this Bank for \$72,792.44 being amount withdrawn by them from their account with us during the occupation.

You require us to admit certain facts and we would very much like to oblige you but, unfortunately, fact No. 3 is not within our present knowledge.

However, we have in the meantime written to Singapore to try and find out the movements of Mr. Wee Kheng Chiang during the period mentioned by you.

20 We will revert to the subject later on receiving a reply.

Yours faithfully,

(Sgd.) MACKAY,
Manager.

SY T.

No. 58 (p).
 Letter,
 Chartered
 Bank of
 India,
 Australia
 & China to
 Mark
 Morrison
 & Co.,
 21st July
 1950.

No. 58 (p).

LETTER, Chartered Bank of India, Australia & China to Mark Morrison & Co.

No. 623.

21st July, 1950.

Messrs. Mark Morrison & Co.,
 Solicitors,
 34, India Street, Kuching.

Dear Sirs,

Bian Chiang Bank.

We now revert to your letter of 6th instant and our reply of 10
 13th idem.

As requested we admit :—

(1) That at the date of the Occupation of Kuching by the
 Japanese Mr. Wee Kheng Chiang was sole proprietor of the Bian
 Chiang Bank.

(2) That at the date of the Occupation of Kuching by the
 Japanese there stood at the credit of an account in name of the
 Bian Chiang Bank with us the sum of \$242,641.48.

With regard to fact No. 3, the Bank admits that Mr. Wee Kheng
 Chiang was not in Kuching at the date of its Occupation by the Japanese 20
 but has no knowledge of his movements after the Occupation of Kuching.
 The Bank understands that at the time of the surrender of Singapore
 on 15th February, 1942, Mr. Wee Kheng Chiang was in a Dutch Island in
 the neighbourhood of Singapore and returned to Singapore after the
 15th February 1942.

With regard to the writer's conversation with Mr. Dunbar, it would
 seem that our solicitors are prepared to defend any case brought against the
 Bank in connection with the matter under reply.

We shall therefore be obliged if you will let us have early notice of any
 pending case so that we can make arrangements accordingly. 30

Yours faithfully,

(Sgd.) MACKAY,
 Manager.

TS.

No. 58 (q).

LETTER, Chartered Bank of India, Australia & China to Mark Morrison & Co.

No. 32.

6th September, 1950.

Messrs. Mark Morrison & Co.,
Solicitors,
34 India Street,
Kuching.

No. 58 (q).
Letter,
Chartered
Bank of
India,
Australia
& China to
Mark
Morrison
& Co.,
6th
September
1950.

Dear Sirs,

10

Bian Chiang Bank

Messrs. Rodyk & Davidson, Singapore, in their letter to us of 1st instant write in part :—

“ We do not know as yet whether an action has been started, what pleadings or plaints have been delivered or anything about the present state of affairs.”

In order that they may be in a position to prepare their defence in good time, we shall be obliged if you will advise us what the present position is.

Yours faithfully,

20

(Sgd.) MACKAY,
Manager.

No. 58 (r).
 Letter,
 Mark
 Morrison
 & Co. to
 Rodyk &
 Davidson,
 8th
 September
 1950.

No. 58 (r).

LETTER, Mark Morrison & Co. to Rodyk & Davidson.

8th September, 1950.

K. Gould, Esq.,
 c/o Messrs. Rodyk & Davidson,
 Advocates & Solicitors,
 Singapore.

Dear Mr. Gould,

Bian Chiang Bank.
 Chartered Bank, Kuching.

10

I duly received your cable of 31st ulto. to which I replied on 4th inst.

The action has not commenced yet and I would have thought you would have relied on your clients to inform you when it had. However you must be concerned as to how long you will have to get up the case and what will be required from you in the way of pleadings so I will say a few words on the subject.

The procedure here is simple in the extreme. The action commences with a Plaint, a copy of which will be served on the Manager of the Chartered Bank here with a Summons to appear and answer on a given date failing which the suit will be heard in his absence. There is no "mentioning" of cases here and the hearing actually proceeds on the day mentioned in the summons. This means very little time between the institution of the action and the hearing (about 2 weeks usually) and for that reason I shall consult with you before I lodge my Plaint to find out dates suitable to you, if you want a longer interval before the hearing I will ask for that. 20

There is no need for a defendant to lodge any pleadings but at the hearing he will be asked what is his defence. This need not be in writing.

If you wish subpoenas to be served on witnesses, either to give evidence or to produce, the Court here (the Circuit Judge in this matter) will do so if requested by letter. This should be asked for as soon as possible. 30

If there is any other point on which you require information you can let me know.

Sorry to be so long in writing you. I have had some rather heavy calls on my time this last week.

Yours faithfully,

(Sgd.) T. G. DUNBAR.

No. 58 (s).

LETTER, Mark Morrison & Co. to Chartered Bank of India, Australia & China.

8th September, 1950.

The Manager,
Chartered Bank,
Kuching.

Dear Sir,

Bian Chiang Bank.

We have your letter of 6th instant and note what Messrs. Rodyk & Davidson have written you.

As we have already informed you on our recent call on you we have wired them that we will consult them as to the best dates for the hearing before the action is instituted. We understand the difficulties confronting advocates who have to deal with cases at a distance and we shall do what we can do to ease these.

We are writing Messrs. Rodyk & Davidson in the matter.

Yours faithfully,
(Sgd.) MARK MORRISON & CO.

No. 58 (s).
Letter,
Mark
Morrison
& Co. to
Chartered
Bank of
India,
Australia
& China,
8th
September
1950.

No. 58 (t).

20

LETTER, Rodyk & Davidson to Mark Morrison & Co.

3rd April, 1951.

Our Ref. KG/N

Dear Sirs,

Bian Chiang Bank.

With reference to previous correspondence in this matter and to the writer's interview with your Mr. Dunbar at the end of December last, our clients state that no further steps have been taken in this matter by you and that since they are anxious that the matter be disposed of one way or the other at the earliest possible opportunity, we are instructed to enquire whether your clients intend to institute their proposed proceedings or not and, if so, when the proceedings are likely to commence.

Yours faithfully,
(Sgd.) RODYK & DAVIDSON.

Messrs. Mark Morrison & Co.,
Solicitors,
34, India Street, 1st Floor,
Kuching, Sarawak.

No. 58 (t).
Letter,
Rodyk &
Davidson
to Mark
Morrison
& Co.,
3rd April
1951.

No. 58 (u).
Letter,
Mark
Morrison
& Co. to
Rodyk &
Davidson,
6th April
1951.

No. 58 (u).

LETTER, Mark Morrison & Co. to Rodyk & Davidson.

6th April 1951.

Messrs. Rodyk & Davidson,
Advocates & Solicitors,
Chartered Bank Chambers,
Singapore.

Dear Sirs,

Bian Chiang Bank.
Chartered Bank, Kuching.

10

We have your letter of the 3rd instant. We are at present preparing a draft minute of Joint Admissions and hope to send it to you for approval within the next few days.

Yours faithfully,
(Sgd.) MARK MORRISON & CO.

No. 58 (v).
Letter,
Mark
Morrison
& Co. to
Bian Chiang
Bank,
10th April
1951.

No. 58 (v).

LETTER, Mark Morrison & Co. to Bian Chiang Bank.

10th April, 1951.

The Manager,
Bian Chiang Bank,
Kuching.

20

Dear Sir,

Chartered Bank.

I enclose in duplicate draft Joint Admissions for revisal and for comparison the translation of the Kyoei opening entries and summary of moneys received by and paid by the Kyoei in respect of pre-Occupation accounts of your customers.

As we informed you yesterday we are trying to ascertain from the Secretary for Chinese Affairs where the original Japanese Bank Order is. If we can get this we suggest paragraph 7 of the Joint Admissions be 30 amplified and a translation of the Order annexed.

The duplicate draft is for your retention.

Yours faithfully,
(Sgd.) T. G. DUNBAR.

No. 58 (w).

LETTER, Rodyk & Davidson to Mark Morrison & Co.

27th April, 1951.

No. 58 (w).
Letter,
Rodyk &
Davidson
to Mark
Morrison
& Co.,
27th April
1951.

KG/PSL

Dear Sirs,

Bian Chiang Bank.
Chartered Bank.

We refer you to your letter of the 6th instant and shall be glad to know when we may expect to receive the draft minute of Joint Admissions for our 10 approval.

Yours faithfully,
(Sgd.) RODYK & DAVIDSON.

Messrs. Mark Morrison & Co.,
34 India Street (First Floor),
Kuching, Sarawak.

No. 58 (x).

LETTER, Mark Morrison & Co. to Rodyk & Davidson.

24th May, 1951.

No. 58 (x).
Letter,
Mark
Morrison
& Co. to
Rodyk &
Davidson,
24th May
1951.

20 Messrs. Rodyk & Davidson,
Advocates & Solicitors,
Chartered Bank Chambers,
Singapore.

Dear Sirs,

Bian Chiang Bank.
Chartered Bank.

We duly received your letter of 27th ulto. and now enclose draft minute of Joint Admissions.

Yours faithfully,
(Sgd.) MARK MORRISON & CO.

No. 58 (y).
Letter,
Rodyk &
Davidson
to Mark
Morrison
& Co.,
28th May
1951.

No. 58 (y).

LETTER, Rodyk & Davidson to Mark Morrison & Co.

KG/PSL.

28th May, 1951.

Dear Sirs,

Bian Chiang Bank
Chartered Bank

We thank you for your letter of the 24th instant enclosing draft minute of Joint Admissions in duplicate. We will submit these to our clients for their consideration and return them to you in due course.

It occurs to us, however, that the Admissions should contain a 10 reference to the cheque drawn by Mr. Wee Hian Teck, since the impression conveyed by the present Joint Admissions is possibly misleading.

Yours faithfully,

(Sgd.) RODYK & DAVIDSON.

Messrs. Mark Morrison & Co.,
34 India Street,
Kuching.

No. 58 (z).
Letter,
Mark
Morrison
& Co. to
Rodyk &
Davidson,
19th June
1951.

No. 58 (z).

LETTER, Mark Morrison & Co. to Rodyk & Davidson.

19th June, 1951. 20

Messrs. Rodyk & Davidson,
Advocates & Solicitors,
P.O. Box 462,
Chartered Bank Chambers,
Singapore.

Dear Sirs,

Bian Chiang Bank
Chartered Bank

We duly received your letter of 28th ulto. and shall be glad to have return of the draft Joint Admissions with your amendments and additions 30 thereto.

Yours faithfully,

(Sgd.) MARK MORRISON & CO.

No. 58 (z.1).

LETTER, Rodyk & Davidson to Mark Morrison & Co.

No. 58 (z.1).
Letter,
Rodyk &
Davidson
to Mark
Morrison
& Co.,
2nd July
1951.

KG/PSL

2nd July, 1951.

Dear Sirs,

Bian Chiang Bank
Chartered Bank

Further to your letter of the 24th May, we now enclose our comments on your draft minute of Joint Admissions.

10 With regard to item (13) we do not know the practice in Sarawak but think it better that an agreed bundle of correspondence be submitted. The correspondence disclosed in the draft minute is far from complete and we think it should certainly include a letter from your clients to our clients of the 17th March 1950, a letter from our clients to your clients of the 20th March 1950, a letter from your clients to our clients of the 23rd March 1950, a letter from our clients to your clients of the 27th April 1950.

We think also that the following admissions should be included :—

20 (A) That Mr. Wee Hian Teck was before the Japanese Occupation of Sarawak the agent of Mr. Wee Kheng Chiang, the sole proprietor of the Bian Chiang Bank, to carry on the bank's business and in particular to operate the Bian Chiang Bank account with the Chartered Bank.

(B) Mr. Wee Hian Teck drew a cheque for \$72,792.44 payable to Bian Chiang Bank or bearer dated 10th October 1944.

Items 10 and 11—our clients have no knowledge of these and would prefer that they did not appear in the Joint Admissions.

Yours faithfully,

(Sgd.) RODYK & DAVIDSON.

30 Messrs. Mark Morrison & Co.,
34 India Street (First Floor),
Kuching,
Sarawak.

No. 58 (z.2).
Letter,
Mark
Morrison
& Co. to
Rodyk &
Davidson,
31st July
1951.

No. 58 (z.2).

LETTER, Mark Morrison & Co. to Rodyk & Davidson.

31st July, 1951.

Messrs. Rodyk & Davidson,
Advocates & Solicitors,
Chartered Bank Chambers,
P.O. Box 462.
Singapore.

Dear Sirs,

Bian Chiang Bank
Chartered Bank

10

We duly received your letter of 2nd inst. with your comments on our draft Joint Admissions. In answer to your comments we have the following to say :—

- (3) We do not agree that the Bian Chiang Bank was at any time during the Occupation "functioning" (or, to use our phrase, "open for business") under the Liquidator or otherwise. That could not, in our view, be said unless the making of loans and receiving of deposits was taking place. The Liquidators activities appears elsewhere in our draft and we think this paragraph should stand as drafted by us. If you do not agree then we suggest you delete the whole paragraph and we shall lead evidence on the point. 20
- (4) We do not understand your comment on this. How can credit balances be frozen for the purpose of paying them out? Either the Japanese "froze" the credit balances immediately upon occupying Kuching or they didn't. If you do not agree that they did, strike the paragraph out.
- (5) How much, if any, of this paragraph is admitted?
- (6) Our clients are not aware of the Change of Liquidator of the Chartered Bank though they have heard of the Southern Regions Development Bank. The point does not seem to be material but we suggest that for "until the end of the Japanese Occupation" there be substituted "until some time after 10th October 1944." 30
- (8) The time of the "unfreezing" may have been before 10th October and we suggest the paragraph read "On or shortly before 10th October 1944 the Japanese Authorities etc." That will leave it open to you to prove the actual date if you think it material and leave it to us to prove the connection with the establishment of the Kyoei Bank if we can. 40
- (9) Your comment introduces disputed questions. We do not admit "payment." Is it not possible to agree on what debits and credits were made and leave it open to both sides to lead evidence as to how these were effected and to argue what the

legal effect is ? We purposely confined ourselves to the making of the bare debits and credits as it seemed to us that these could be admitted by you, or could be admitted if the Chartered Bank here, would take the trouble to look at the books in which they were made the Chartered Bank has been asked more than once to look at these books, which have all along been available for their inspection. Do your clients (after inspection of the books, if they care to do so) admit that the debits and credits were made ?

No. 58 (z.2).
Letter,
Mark
Morrison
& Co. to
Rodyk &
Davidson,
31st July
1951,
continued.

- 10 (10) and
- (11) If you do not wish these to appear then they must come out. We may wish to prove them in Court which will be a time-consuming business as translation and calculation are involved. We do not understand the apparent reluctance of the Chartered Bank here to inspect the books concerned but as stated above these paragraphs must come out if you so wish.
- 20 (12) Your clients are well aware our clients do not agree "the balance" of their account was paid. Is it not possible to agree that the difference between the pre-war \$242,641.48 and the (disputed) \$72,792.44 has been paid ? That still leaves it open for you to argue that nothing further remains due.
- (13) We agree to the addition of the letters you detail in your letter. If you wish the correspondence in a separate bundle we have no objection.

Wee Hian Teck's Cheque for \$72,792.44.

We omitted reference to these as we thought it better that you should frame the admissions if you wished them. However we think the admissions you suggest go further than the facts warrant. As the letter and cheque will be called for and the circumstances in which the cheque came to be signed a subject for evidence we think they should be mentioned but briefly. We suggest—

"On or about 10th October 1944 Wee Hian Teck signed a cheque on the Chartered Bank for \$72,792.44, which cheque will be produced at the hearing of this cause.

The said Wee Hian Teck had, by a letter dated 16th October 1940 from the Plaintiff to the Chartered Bank, been authorised to sign cheques on behalf of the Bian Chiang Bank. Said letter will be produced at the hearing of this cause."

We shall be glad to hear from you in course.

40

Yours faithfully,

(Sgd.) MARK MORRISON & CO.

No. 58 (z.3).
Letter,
Rodyk &
Davidson
to Mark
Morrison
& Co.,
17th
August
1951.

No. 58 (z.3).

LETTER, Rodyk & Davidson to Mark Morrison & Co.

Our Ref. JWC/TBH.

17th August, 1951.

Dear Sirs,

Bian Chiang Bank
Chartered Bank

We thank you for your letter of the 31st July and regret the delay in replying thereto. The reason being that our Mr. Gould who was dealing with this matter, left on home leave on the 8th August and handed over the matter to our Mr. J. W. Cashin who has only just been able to attend to the matter.

We have forwarded a copy of your letter to our clients and await their instructions.

Yours faithfully,
(Sgd.) RODYK & DAVIDSON.

Messrs. Mark Morrison & Co.,
34, India Street,
Kuching.

No. 58 (z.4).
Letter,
Mark
Morrison
& Co. to
Rodyk &
Davidson,
24th
September
1951.

No. 58 (z.4).

LETTER, Mark Morrison & Co. to Rodyk & Davidson.

20

24th September, 1951.

Messrs. Rodyk & Davidson,
Advocates & Solicitors,
P.O. Box 462,
Chartered Bank Chambers,
Singapore, 1.

Dear Sirs,

Bian Chiang Bank
Chartered Bank

We duly received your letter of 17th ulto. and shall be glad if you can now let us hear from you in reply as our client is asking that this matter be proceeded with.

Yours faithfully,
(Sgd.) MARK MORRISON & CO.

No. 58 (z.5).

LETTER, Rodyk & Davidson to Mark Morrison & Co.No. 58 (z.5).
Letter,
Rodyk &
Davidson
to Mark
Morrison
& Co.,
4th October
1951.

Our Ref. JWC/PSL.

4th October, 1951.

Dear Sirs,

Bian Chiang Bank
Chartered Bank

We are in receipt of your letter of the 24th ultimo. We regret the delay in replying. Our comments on your letter of the 31st July 1951 are as follows :—

- 10 (3) As no agreement can be reached, this clause had better come out.
- (4) — do. —
- (5) Our earlier comment to stand.
- (6) Our clients state that the previous comment was not quite correct and that it ought to be as follows :—
- 20 “ From the books in our possession, it would appear that the Yokohama Bank, as Liquidators, collected the debts due to the Chartered Bank and used part of these collections to refund 30% of the credit balances of constituents. We do not know whether these amounts were transferred to our account in the Yokohama Bank as the books of the Yokohama Bank are not now in existence. The Liquidator's books only show a transfer to the Yokohama Bank of \$50,000 on 1/9/44 but to what account this went, we do not know. There is another entry of \$131,634.30 on 10/9/44 marked ‘ Balances due to other banks ’ (Bian Chiang Bank and Kwong Lee Bank) but it does not state where this amount went to.”
- (8) We agree to your suggestion.
- 30 (9) Our clients admit that the Liquidator's account in their possession was debited with the amount of \$72,792.44 but they cannot admit that the Chartered Bank Liquidation account with the Yokohama Bank was debited in the absence of the day to day bank records of the Yokohama Bank which were destroyed.
- (10) and (11) We think these should be withdrawn.
- (12) Agreed.
- (13) We believe a separate bundle of correspondence is preferable.

No. 58 (z.5). *Wee Hian Teck and cheque for \$72,792.44.*

Letter,
Rodyk &
Davidson
to Mark
Morrison
& Co.,
4th October
1951,
continued.

Your suggested wording appears to meet the case.

We do not know whether the matter can now be proceeded with and
await to hear what you have to say.

Yours faithfully,

(Sgd.) RODYK & DAVIDSON.

Messrs. Mark Morrison & Co.,
34, India Street (First Floor),
Kuching,
Sarawak.

10

No. 58 (z.6).
Letter,
Rodyk &
Davidson
to Mark
Morrison
& Co.,
12th
January
1952.

No. 58 (z.6).

LETTER, Rodyk & Davidson to Mark Morrison & Co.

12th January, 1952.

Our Ref. JWC/PSL

Dear Sirs,

Bian Chiang Bank
Chartered Bank.

With reference to the hearing of the above case, we shall be glad if
you will try to fix a date after the 10th February next, as our Mr. J. W.
Cashin, who will be representing the Chartered Bank, will not be available 20
before that date.

Yours faithfully,

(Sgd.) RODYK & DAVIDSON.

Messrs. Mark Morrison & Co.,
34, India Street (First Floor),
Kuching, Sarawak.

No. 58 (z.7).

LETTER, Mark Morrison & Co. to Rodyk & Davidson.

15th May, 1952.

Dear Gould,

Wee Kheng Chiang v. Chartered Bank

I have filed the Plaintiff in the above case. The question arises as to the hearing and I would like to fix dates which will suit us both. I think it should take about two days. To give you adequate time I suggest some dates between 1st and 15th July. These dates will suit an important witness, other dates will suit me but I feel that it would not be convenient to you.

If I can do anything to assist in any way e.g. accommodation at Rest House, please let me know.

Yours,

(Sgd.) MARK MORRISON.

K. Gould, Esq.,
Messrs. Rodyk & Davidson,
Chartered Bank Buildings, Singapore.

No. 58 (z.7).
Letter,
Mark
Morrison
& Co. to
Rodyk &
Davidson,
15th May
1952.

No. 58 (z.8).

LETTER, Mark Morrison & Co. to Rodyk & Davidson.

31st May, 1952.

K. Gould, Esq.,
Messrs. Rodyk & Davidson,
Chartered Bank Buildings,
Singapore.

Dear Gould,

Wee Kheng Chiang & Chartered Bank

I have arranged with the Registrar for dates 2nd and 3rd July for hearing.

Yours sincerely,

(Sgd.) MARK MORRISON.

No. 58 (z.8).
Letter,
Mark
Morrison
& Co. to
Rodyk &
Davidson,
31st May
1952.

20

30

No. 58 (z.9).
Letter,
Mark
Morrison
& Co. to
Chartered
Bank of
India,
Australia
& China,
19th June
1952.

No. 58 (z.9).

LETTER, Mark Morrison & Co. to Chartered Bank of India, Australia & China.

19th June, 1952.

Chartered Bank of India,
Australia & China,
Kuching.

Wee Kheng Chiang

v.

Chartered Bank of India, Australia & China.

Take notice that when the above case is called on for hearing the 10
Plaintiff will apply to add the following paragraph to the plaint as part of
the facts.

6A. Alternatively if it should be held that payment was made
to the Plaintiff or to his agent or to the Custodian or a liquidation
officer purporting to act on behalf of the Plaintiff (all of which is
denied) then in such event it is contended by the Plaintiff that the
acceptance of such payment was caused by duress but nothing in this
paragraph is to be construed as an admission of payment or accept-
ance of payment by the Plaintiff.

I shall be grateful if you would advise your legal representative of the 20
contents of this letter.

Yours faithfully,

(Sgd.) MARK MORRISON.

EXHIBITS.

Exhibits.

1.

Consolidated Balance Sheet of Kwong Lee Bank, Bian Chiang Bank and Wah Tat Bank (undated).

APPELLANT'S EXHIBIT No. "1."
Consolidated Balance Sheet of the Kwong Lee Bank, Bian Chiang Bank and Wah Tat Bank.

C/47/52.
Ex. 1.

ASSETS				LIABILITIES				
	TOTAL	K.L.B.	B.C.B.	W.T.B.	K.L.B.	B.C.B.	W.T.B.	TOTAL
Cash	848,559.08	(469,418.21)	(346,178.91)	32,961.96	(498,585.55)	988,765.18	26,342.05	1,513,692.78
	200,000.00	361,742.04	72,792.44		345,748.07			Deposits.
		58,841.86	273,386.47		152,837.48			
		48,834.31						
Overdraft and Loan etc.	1,516,245.67	(613,140.85)	734,917.13	168,187.69	(129,347.56)	56.48	39,145.72	168,549.76
		324,854.78			125,218.94			Other Liabilities.
		288,286.07			4,128.62			
Properties	473,262.75	(205,000.00)	264,262.75	4,000.00				
		111,000.00						
		94,000.00						
Moveable Properties ..	34,192.32	(2,495.00)	(30,715.00)	982.32				
		2,495.00	25,000.00					
		1,215.00	1,215.00					
		4,500.00	4,500.00					
Shares	8,900.00		(8,900.00)		26,000.00	64,000.00	5,000.00	200,000.00
			7,500.00					Ordinary Shares.
			1,400.00					Deferred Shares Capital taken.
					201,550.00	157,700.00	40,750.00	400,000.00
					460,570.95	238,452.13	99,894.20	798,917.28
								Suspense A/c.
	200,000.00							200,000.00
	2,881,159.82	1,290,054.06	1,384,973.79	206,131.97	1,290,054.06	1,384,973.79	206,131.97	2,881,159.82

APPELLANT'S EXHIBIT No. "2."

**Consolidated Balance Sheet of the Kwong Lee Bank, Bian Chiang Bank and Wah Tat Bank
and Kyoei Bank.**

Exhibits.

2.

Consolidated
Balance
Sheet of
Kwong Lee
Bank,
Bian Chiang
Bank and
Wah Tat
Bank and
Kyoei
Bank
(undated).

C/47/52
Ex. 2.

	ASSETS						LIABILITIES					
	Total	Kyoei	K.L.B.	B.C.B.	W.T.B.	K.L.B.	B.C.B.	W.T.B.	Kyoei	W.T.B.	Deposits	Other liabilities
Cash	1,998,152.92	200,000.00	(419,012.05) 311,335.88 58,841.86 48,834.31	(346,178.91) 72,792.44 273,386.47	32,961.96	(198,583.35) 315,715.07 152,837.48	988,765.18	26,342.05			1,515,692.78	
Overdraft Loan etc.	1,516,245.67		(613,140.85) 324,854.78 288,286.07	734,917.13	168,187.69	(129,347.56) 125,218.94 4,128.62	56.48	39,145.72			168,549.76	
Properties	473,262.75		(205,000.00) 111,000.00 94,000.00	264,262.75	4,000.00							
Moveable Properties	34,192.32		(2,495.00) 2,495.00	(30,715.00) 25,000.00 1,215.00 4,500.00	982.32							
Shares	8,900.00		(8,900.00) 7,500.00 1,400.00									
Banker & Government	50,406.16		(50,406.16) 50,000.00 406.16			201,550.00	157,700.00	40,750.00			400,000.00	Deferred Shares
						(200,000.00) 95,000.00 25,000.00 25,000.00 20,000.00 35,000.00					200,000.00	Ordinary Sh. Chinese Bnks. Indians Malays Dayaks Chinese
						460,570.95	238,452.13	99,894.20			798,917.28	Suspense a/c
	3,081,159.82	200,000.00	1,290,054.06	1,384,973.79	206,131.97	1,290,054.06	1,384,973.79	206,131.97	200,000.00		3,081,159.82	

RESPONDENT'S EXHIBIT No. " 19."

Certified Translation of Notice in Malay regarding the unfreezing of 30% of Chartered Bank of India, Australia and China Pre-occupation Account Balances.

Date Sept. 1 1944.

Re Payment of Deposit in the Chartered Bank

Mr. Mohd. Nasli bin Haji Sa'a.

For your information and notification we hereby announce that the deposit account department of " Chartered Bank, Kuching Branch " has made decision to refund all balance of money in the current account \$478 26.

10

Now in pursuance of the Military order, an amount of 30 per cent. of the balance deposited will be refunded. You are requested to come and bring all the account books, cheque books and other documentary proof, within the period from 1st September to 30th November, 1944.

In the event that all documentary proof which are required were lost, kindly report to us.

Please note, any application made in this matter after the expiry date will not be accepted.

We have the honour to be, Sir,

20

Your obedient servants,

YOKOHAMA SHOKIN GINKO.

Translated by me,

MOHD. YATIM,

Sworn Interpreter,

Supreme Court, Singapore.

Exhibits.

19.
Certified translation of Notice in Malay regarding the unfreezing of 30% of Chartered Bank of India, Australia & China pre-occupation account balances, 1st September 1944.

XX

*Exhibits.***APPELLANT'S EXHIBIT No. "3."**

Ex. 3.

3.
Memorandum of Contin-
uance and Balance Sheet of Bian Chiang Bank with its Liquidator, Yokohama Specie Bank, 9th October 1944.

TRANSLATION.

Yokohama Specie Bank
(Kuching Branch),
Rock Road, Kuching, North Borneo,
Kuching Telephone No. 118.

MEMORANDUM OF CONTINUANCE.

1. All the properties and assets belonging to the Kwong Lee Bank and Bian Chiang Bank as stated in a separate list as from 10th day of 10 the 10th month of Showa year 19th are transferred to your Bank.

SEPARATE LIST.

1. Balance Sheet as at the 9th day of 10th month of Showa the 19th year.

Kwong Lee Bank and Bian Chiang Bank each one copy.

2. Detailed particulars of Profit & Loss as at the 9th day of the 10th month of Showa 19th year.

Kwong Lee Bank and Bian Chiang Bank each one copy.

3. List of property as at the 9th day of the 10th month of Showa 19th year. 20

Kwong Lee Bank and Bian Chiang Bank each one copy.

NOTES : Detailed list of business premises and furniture and all moveable and immoveable properties.

Dated the 10th May day of the 10th month of Showa 19th year.

Liquidator of Kwong Lee Bank and Bian Bank.

Manager of Yokohama Specie Bank, Kuching Branch.

(Sgd.) KATU.

To Messrs. Kyoei Bank Limited :

The above transferred to you on the 10th day of the 10th month of Showa 19th year. 30

(Sgd.) LAM SIONG KHEUN,
Vice President, KYOEI BANK LIMITED.

Messrs. Yokohama Specie Bank,
Kuching Branch.

I certify, in so far as I am able to read the Japanese characters, this is a translation of Ex. No. 3.

(Sgd.) WILLIAM CHEW.

APPELLANT'S EXHIBIT No. "4."
General Balance Sheet of Kyoee Bank Limited as at 10th Ju-Gatsu 2604.

Exhibits.

4.

SHARE CAPITAL	LIABILITIES	CASH	ASSETS	Balance Sheet of Kyoee Bank Limited, 10th October 1944.
4000 Ordinary Shares	\$200,000.00	Cash in hand	\$ 19,250.00
8000 Deferred Shares	201,550.00	At the Yokohama Specie Bank Ltd.	877,156.65
Kwong Lee Bank Limited	157,700.00	At Sibiu Branch Office	101,746.27
Bian Chiang Bank	40,750.00		
Wah Tat Bank	—		
				\$998,152.92
		\$600,000.00	CASH AT BANKER AND GOVERNMENT	
			Kwong Lee Bank Ltd.	
			Deposit in Oversea Chinese Bank, Syonan ..	406.16
			Kwong Lee Bank Ltd. T.T.	
			from Sibiu unpaid by former Government ..	50,000.00
		1,334,513.25		50,406.16
			LIQUIDATION OVERDRAFT AND LOANS A/c.	
			A/c Kwong Lee Bank Limited	324,854.78
			" Bian Chiang Bank	734,917.13
				1,059,771.91
			SIBU BRANCH LIQUIDATION OVERDRAFT & LOAN A/cS.	
		179,179.53	A/c Kwong Lee Bank, Ltd. Sibiu	288,286.07
			" Wah Tat Bank, Sibiu	168,187.69
				456,473.76
			SIBU BRANCH PROPERTIES	
			A/c Kwong Lee Bank Ltd., Sibiu	94,000.00
			" Wah Tat Bank, Sibiu	4,000.00
		125,275.42		98,000.00
			SIBU BRANCH MOVEABLE PROPERTIES	
			A/c Wah Tat Bank, Sibiu	982.32
			SHARES (INVESTMENT)	
		43,274.34	United Chinese Bank Syonan shares held by Bian Chiang Bank	7,500.00
			Bukit Young Shares	1,300.00
			Sarawak Mining Shares	100.00
				8,900.00
			PROPERTIES AT KUCHING	
		798,917.28	A/c Kwong Lee Bank Limited	111,000.00
			" Bian Chiang Bank	264,262.75
				375,262.75
			MOVEABLE PROPERTIES AT KUCHING	
			A/c Kwong Lee Bank Limited	2,495.00
			" Bian Chiang Bank	30,715.00
				33,210.00
				<u>\$5,081,159.82</u>

APPELLANT'S EXHIBIT No. "5."

Extract from Cash Account of Yokohama Specie Bank as Liquidator of Bian Chiang Bank.

Exhibits.
5.
Extract
from cash
account of
Yokohama
Specie Bank
as
Liquidator
of
Bian Chiang
Bank
(undated).

Date	No.	Particulars	Folio	Debit	Credit	Balance
2604		Brought forward		\$276,559.97	\$3,551.33	
Sept. 26	4167	Liquidation Exp. Bk. Staff's pay		\$220.00		
		do. R. est. Staff's pay	41	48.50	268.50	
	4168	do. S. Allee to O. Staff ending 30.9.04	"		165.00	
	846	Overdraft A/c Soon Guan Ann 24th payt. to a/c	20	1,000.00		
	847	do. Sim Cheng Liang 20th payt. to a/c	"	10.00		
27	848	Loan a/c Yap Theng Chuan 22nd payt. to a/c	12	25.00		
	849	House Rent a/c Pawali 1 month's H. Rent	52	30.00		
28	850	do. Eng Ho Leong 1 month H. Rent	"	90.00		
29	851	do. Teo Eng Hin 1 month H. Rent	"	33.00		
	852	do. Kueh Beng Chua 1 month H. Rent	"	126.00		
	853	do. Sim Tang Chiang 1 month H. Rent	"	12.00		\$273,901.14
Oct. 5	4169	Liquidation Exp. Bk. Staff's pay for Oct. & Nov.			440.00	
	4170	do. 1 month & 10 days House rent from 1.9.04 to 10.10.04	41		74.67	273,386.47
10		30% on \$242, 641.48 Deposit in Chartered Bank refunded		72,792.44		
		Balance transferred to Kyoei Bank Limited			346,178.91	
				\$350,678.41	\$350,678.41	

APPELLANT'S EXHIBIT No. "6."

Current Account Paying In Book Receipt, Yokohama Specie Bank for Account of Kyoiei Bank.

Exhibits.

6.
Current account paying-in book receipt, Yokohama Specie Bank for account of Kyoiei Bank (undated).

Ex. 6.

Part of Seal of Yokohama Specie Bank	
Sugi	
Showa 19th year 10th month 10th day (Corresponding to 10.10.1944)	
To Kyoiei Bank	
\$716,356.65 (in words)	Seal Sugi
7680 Kwong Lee	\$370,177.74
4171 Bian Chiang	\$346,178.91
Yen 716,356.65.	

Translation correct of book initialed by me as far as I can make out. (Sgd.) SIM P. AN CHI. 2.7.52.

Yokohama Specie Bank Seal

Yokohama Specie Bank.

Current A/c pay-in book receipt.

10

Exhibits.

7.
Translation
of
Japanese
Bank Order
(undated).

APPELLANT'S EXHIBIT No. "7."
Translation of Japanese Bank Order.

BANK ORDER.

CHAPTER 1. GENERAL.

1. The aim and object of the Kyoei Bank (hereinafter cited as "the Bank") are to facilitate the smooth circulation of currency. The Bank shall be a "Kabushiki Kaisha" (joint stock company) conforming to the provisions of the commercial Law of Nippon.

2. The Bank shall have its principal office at Kuching and a branch office at Sibü. The Bank with the approval of the "Sambocho" (the Chief of the Staff, I.S.A.) may have a subsidiary office at any place deemed necessary. 10

3. The amount of the Capital of the Bank shall be six hundred thousand dollars divided into four thousand ordinary shares and eight thousand deferred shares; the fixed amount of a share shall be fifty dollars.

4. All the shares of the Bank shall be registered and nobody excepting the inhabitants shall be allowed to deal in or transfer them. Transactions and transfer of shares shall be approved by the "Sambocho."

5. The Bank shall prescribe in the articles of Association of the Bank the following particulars:— 20

1. The object.
2. The name.
3. The name(s) of the place(s) of the Office(s).
4. Particulars concerning the rights and liabilities of the shareholders.
5. Particulars concerning the amount of the Capital and concerning shares.
6. Particulars concerning the Reserved Fund.
7. Particulars concerning general meetings of shareholders. 30
8. Particulars concerning the officers.
9. Particulars concerning the business and its execution.
10. Particulars concerning the accounts and auditing.
11. Methods of Public advertisement.

Alteration of Articles of Association shall take effect subject to the approval by the Sambocho.

6. When any cause occurs necessitating the dissolution of the Bank, the Sambocho shall prescribe the measures to be taken thereafter.

CHAPTER 2. OFFICERS.

7. The officers of the Bank shall consist of:— 40

One President, Two Vice Presidents, and a number of Directors, Auditors and Advisers.

8. The president shall represent the Bank and preside over its business. In the event of the president's incapacity one of the Vice Presidents shall act in his place and in case of a vacancy of the post of President he shall execute the duty of the President.

The Vice Presidents shall assist the President and represent the Bank for its ordinary business and control the business of the Bank.

Directors shall assist the President and the Vice President and take charge of their respective duties.

Auditors shall audit the business of the Bank.

10 Advisers shall give their Opinions, in response to the President's inquiry or of their own accord on important questions concerning the business of the Bank.

9. The President, Vice-Presidents, Directors and Auditors shall be elected from among the shareholders at a general meeting and their appointment and resignation shall be approved by the Sambocho.

Advisers shall be appointed by the Sambocho.

Duration of office shall be for four financial periods and reappointment is permissible.

20 10. The President and Vice-Presidents may appoint a proxy with full power to do both judicial and non-judicial acts in regard to the business of the Bank but such delegation of power must be immediately reported to the Sambocho.

CHAPTER 3—BUSINESS

11. The business of the Bank shall be :—

- (1) To Receive Deposits.
- (2) To Borrow money.
- (3) To make loans.
- (4) To Discount and deal in bills.
- (5) To transact negotiable instruments.
- 30 (6) To deposit money in " Nampo Kaihatsu Kinko or Yokohama Shokin Ginko."
- (7) To make investments ordered by the Sambocho or by a person authorised by him, and to transact.
- (8) Any other business mentioned above.

CHAPTER 4—RESERVE FUND

12. The bank shall hold as a Reserve Fund the amount of more than five-hundredths of the net profit for every business year in order to make up the deficit of the capital, besides holding as a special reserve the amount of more than two-hundredths of the net profit.

40

CHAPTER 5—ACCOUNTS

13. Financial Periods of the Bank are from April to September and from October to March of the next year.

Exhibits.

7.
Translation
of
Japanese
Bank Order
(undated),
continued.

Exhibits.
 7.
 Translation
 of
 Japanese
 Bank Order
 (undated),
continued.

14. The Bank shall keep at its principal office a Balance Sheet and a Statement of Profit and Loss at the time of its incorporation and at the commencement of each business year together with the Articles of Association of the Bank.

CHAPTER 6—SUPERVISION AND SUBSIDY

15. The Sambocho may order the Bank to report to him on the conditions of business and assets, make investigations, issue orders and dispose of its business, if necessary.

16. The Shiu Chokan in charge of the area where an office of the Bank is situated shall supervise the business of the office under the 10 direction of the Sambocho.

17. The Shiu Chokan shall appoint a Comptroller and make him direct the business of the Bank.

The Comptroller may at any time investigate the business and conditions of the assets of the Bank.

The Comptroller may attend a general meeting of shareholders or any other meetings and may express his opinions.

18. The Bank shall not dispose of its profits without approval of the Sambocho.

19. The Bank shall fix the maximum of rate of interest for deposits, 20 loans and the discounting of bills and obtain approval of the Sambocho ; it may modify such rates subject to similar approval

20. The Army shall subsidize the Bank for the period of first four financial periods from the establishment of the Bank, granting an annual amount allotted to each financial period corresponding to four-hundredths of the paid-up capital of ordinary shares, provided that there is profit to divide, the same amount shall be deducted from subsidy.

The subsidy shall be appropriated to a dividend for ordinary shares.

21. The Bank shall not apportion a dividend to deferred shares unless the Bank be able to make apportionments of a dividend of profit 30 for the ordinary shares of annual rate of four-hundredths without receiving the subsidy prescribed in the preceding Articles.

The amount of a dividend shall not exceed an annual rate of eight-hundredths of the paid-up capital.

CHAPTER 7—PENALTY

22. The President, Vice-President, or Vice-Presidents, director or directors, auditor or auditors, proxy or proxies as provided for in Article 10 or employee or employees entrusted by the Bank with a certain kind of

business or a specific item of mandate who comes or come under one of the following cases shall be liable to a fine not exceeding five thousand dollars.

Exhibits.

7.

Translation
of
Japanese
Bank Order
(undated),
continued.

- (1) In case the Bank does not obtain approval when such is necessary by the present Order.
- (2) In case the Bank carries out a business not provided for in the present Order.
- (3) In case the Bank contravenes orders issued or measures taken by the Sambocho or the Shiu Chokan.
- 10 (4) In case the Bank rejects, obstructs or evades investigations of a comptroller under the provision of Article 17 or does not furnish informations ordered by him.

23. The president, vice-president or vice-presidents, director or directors, auditor or auditors, proxy or proxies as provided for in Article 10 or employee or employees entrusted by the Bank with a certain kind of business or a specific item of mandate who comes or come under one of the following cases shall be liable to a fine not exceeding two thousand dollars.

- 20 (1) In case the Bank contravenes the present order or orders issued under the provisions of the Order, or neglects required publicity or makes an unlawful one.
- (2) In case the Bank contravenes the provisions of Article 14 and keeps no documents or fails to record in the documents the items required to be kept or records false statements.

SUPPLEMENTARY RULES (MISCELLANEOUS).

24. This Order shall come into force on day of Showa.

25. The Sambocho shall appoint the members of the organising committee who will be entrusted with the management of all current business for the organisation of the Bank.

30 26. The organising committee shall draft articles of association for the Bank and after approval by the Sambocho, offer to the public four thousand ordinary shares for subscription.

27. The Bank shall amalgamate with the Bian Chiang Bank, the Kwong Lee Bank and the Wah Tat Bank. To the shareholders of the banks amalgamated eight thousand paid-up deferred shares of the Bank shall be allotted; provided that the allotment of the said shares be approved by the Sambocho.

40 28. In case a shareholder of the original bank or banks is deemed as being hostile or if his address is unknown the shares of the banks to be allotted to him shall be taken charge of by the chief custodian of enemy property.

Whether a shareholder of the original bank is hostile or not shall be decided by the Sambocho.

29. The Bank shall take over the claims and liabilities of the original banks.

Exhibits.

7.

Translation
of
Japanese
Bank Order
(undated),
continued.

30. The organising committee after the completion of the subscription shall immediately call for the payment of the ordinary shares.

On receiving the total amount the organising-committee shall immediately report it to the Sambocho.

31. When after receiving the report of the preceding article the Sambocho has ordered the organising committee to transfer their duties, the committee shall without delay transfer it to the president of the Bank.

The president of the Bank on taking over the duties shall register the incorporation in conformity with the provisions of the statute of the Bank.

The Bank shall be legally established with the completion of the 10 aforesaid registration.

32. The president, vice-president, directors and auditors at the time of the establishment of the Bank notwithstanding the provision of Article 9 shall be elected for their respective appointments from among the shareholders by the organising-committee subject to the approval of the Sambocho.

33. The first financial periods of the Bank notwithstanding the provision of Article 13 shall be from the date of the establishment to March of the next year.

34. The penalties outlined in Articles 22 and 23 shall *mutatis mutandis* 20 apply to the members of the organising-committee.

35. Ex Sarawak Government Order No. C-2 1927 (Order No. C-2 (Companies 1927) shall *mutatis mutandis* apply in regard to the management and administration of the bank.

36. The bank shall be exempt for the time being from the fees prescribed by Ex Sarawak Government Order No. C-2, 1927 (Schedule attached to Order No. C-2, 1927).

I hereby certify that the writing on the attached sheets to which I have set my initials contains a true copy of the " Bank Order " filed in this Registry of which same purports to be a copy. 30

Dated at Kuching, this 30th day of June, 1952.

(Sgd.) TAN YAM THONG,
Ag. Chief Registrar.

Seal of the Chief Registrar, Supreme
Court of Sarawak, North Borneo
and Brunei.

Fee \$3.
in stamps.

APPELLANT'S EXHIBIT No. "9."

Translation of Extracts, Kyoei Bank Deposits with Yokohama Specie Bank.

Exhibits.

9.

Translation of extracts, Kyoei Bank deposits with Yokohama Specie Bank (undated).

WITH YOKOHAMA SPECIE BANK.

	<i>Date</i>	<i>Deposited</i>	<i>Withdrawn</i>
	1944		
	Oct. 20	\$300,000	
	Dec. 21		\$300,000
	1945		
	Jan. 30	300,000	
10	Jun. 29	300,000	
	Jly. 3	300,000	300,000
	15	300,000	
	Sept. 7		900,000

KYOEI BANK DEPOSIT AT 4 DAYS CALL WITH NAMPO KAIHATSU CINKO
(SOUTHERN REGIONS DEVELOPMENT BANK).

	<i>Date</i>	<i>Deposited</i>	<i>Withdrawn</i>
	1944		
	Oct. 19	\$300,000	
	1945		
20	Feb. 15		\$300,000

Exhibits.

APPELLANT'S EXHIBIT No. "10."

10.
Summary
of moneys
received by
and paid
by
Kyoei Bank
in respect
of Pre-
Occupation
a/cs of
Customers
with the
Bian Chiang
Bank with
balances
(undated).

Summary of Moneys received by and paid by the Kyoei Bank in respect of Pre-occupation Accounts of Customers with the Bian Chiang Bank, with Balances from time to time.

SUMMARY OF MONEYS RECEIVED BY AND PAID BY THE KYOEI BANK IN RESPECT OF PRE-OCCUPATION ACCOUNTS OF CUSTOMERS WITH THE BIAN CHIANG BANK, WITH BALANCES FROM TIME TO TIME.

<i>Period ended</i>	<i>Collected</i>	<i>Paid out</i>	<i>Excess of Payments over Receipts</i>	
1944 Oct. 25	\$944.11	\$2,000.00	\$1,055.89	
28	3,834.37			10
Nov. 13	138.00	895.51		
14		2,229.36	208.39	
16	1,000.00	3,564.12	2,772.51	
17		55,238.26	58,010.77	
18	15.00	4,006.22	62,001.99	
21		23,035.20		
23		13,482.17	98,519.36	
24	333,203.54	355,313.76	120,629.58	
30		20,365.96	140,995.54	
Dec. 1		9,444.90		20
4	200.00	2,039.20	152,279.64	
9	100.00	204.92	152,384.56	
11	30.25			
12		428.85		
19	5,469.21	13,243.14	160,557.09	
26	37,136.05	1,776.20	125,197.24	
27		1,415.01	126,612.25	
28	1,300.00			
29	150.00	129,912.12	255,074.37	
30	635.63	5,188.44	259,627.18	30
1945 Jan. 2	1,000.00	116.84		
3	797.99			
4		5,741.40	263,727.43	
15	100.00	6,000.00	269,627.43	
16	637.64	300.00	269,289.79	
26	2,688.00	12,785.44	279,387.23	
30		2,591.42	281,978.65	
Feb. 27	2,558.76	1,257.78	280,677.67	
Mar. 9	6,563.73	2,588.70	276,702.64	
Aug. 31	118,965.59		157,402.05	40
Sep. 1	4,058.60	243.91	153,102.36	
4	295.00			
11	1,000.00		151,802.36	

RESPONDENT'S EXHIBIT No. "16."

**Translation of Balance Sheet of Yokohama Specie Bank as Liquidator of the Chartered
Bank of India, Australia & China.**

Exhibits.

16.

Translation
of Balance
Sheet of
Yokohama
Specie Bank
as
Liquidator
of
Chartered
Bank of
India,
Australia
& China,
30th
September
1944.

THE CHARTERED BANK OF INDIA, AUSTRALIA & CHINA, KUCHING,
(IN LIQUIDATION)

BALANCE SHEET AS AT 30th September, 1944.

ASSETS

152,415-53	Cash deposited with Yokohama Specie Bank, Ltd.		
36,348-46	Bank (Balance for payment of liabilities)		
30,543-95	Balance due by other banks (1)		
334-31	Bullion & Foreign A/c		
4,671-25	Bad Debts (3 Non-Enemy)		
58,203-43	Overdrafts (Non-Enemy) (21) 47,823-61 (Enemy) (31) 10,379-82		
2,165-88	Sundry Debtors & Advances (Non-Enemy) (6) 577-00 (Enemy) (2) 1588-88		
41-76	Stamps A/c		
9,200-00	Bank Premises		
1,658-76	Office & House Furniture		
586-21	Bills Bought A/c (Enemy) (8)		
2,700,000-00	London Exchange Fixed Deposit A/c (1 Enemy)		
32,472-97	Current Account with Branches (13 Enemy)		
3,783-76	Bills held on a/c I.C. & Others (Non-Enemy) (14) 3,516-87 (Enemy) (1) 266-89		
28,000-00	Pool A/c		
	Amount trfd. to the State Bank of North Borneo, Apl.		
	Profit & Loss A/c (During Chuicho's time)		
	Petty charges paid by Chuicho	5-01	
	Salaries to C.S.I. Staff -do-	1,374-15	
	Liquidation Expenses	708-26	
		2,085-02	
	Less Interest collected		327-19
1,761-83			

1,761-83
3,412,380-10
43,385,835-64

LIABILITIES

166,126-59	Current Account Balances (Non-Enemy)		
173,136-13	(Enemy)		
1,554,431-76			
1,733,567-89	Less Amount trfd. to Y.S.B.		
49,550-00			
8,758-76	Balances due to other Banks (Non-Enemy) (2)		
3,208-76	(Enemy)		
593,235-99	Fixed Deposit		
1,002,444-75	Less Amount trfd. to Y.S.B.		
450-00			
	Provision for Bad Debts		
	Deposits on account T.T. &c. (Enemy) (9)		
	Drafts Sold (") (7)		
	Sundry Clients (1 Non-Enemy)		
	Bills received for Collection (Non-Enemy) (14) 3,516-87 (Enemy) (1) 266-89		
	Temporary Receipt		
	Profit & Loss A/c (Before Liquidation)		
	Profit & Loss A/c		
	Interest collected by Y.S.B.	2,590-67	
	House Rent -do-	4,050-00	
	Less Liquidation Expenses	6,640-67	
		1,012-20	

3,412,380-10
43,385,835-64

163
16
Standard
22/1/53

RESPONDENT'S EXHIBIT No. "13."

Exhibits.

**Extract from Ledger of Yokohama Specie Bank as Liquidator of The Chartered Bank of
India, Australia & China.**

13.
Extract
from
Ledger of
Yokohama
Specie Bank
as
Liquidator
of
Chartered
Bank of
India,
Australia
& China
(undated).

CHARTERED BANK (Property in Custody)

Date	Particulars	Folio	Dr.	Cr.	Balance
1941 Dec. 31	Cash taken over by Treasury C.I.			92,229.79	92,229.79
1942 Jan. 1	Balance to G.P.D. Staff for C.I. December 1941 paid by Treasury C.I.		1,374.15		90,855.64
June 6	Proceeds of Khudra Note No. 75 exchanged at 25 per cent			75	90,930.64
Dec. 31	Details per Statement from Treasury		1,374.15		90,930.64
	Balance carried forward		90,930.64	92,304.79	90,930.64
1943 Jan. 2	Balance brought forward		90,930.64		90,930.64
June 30	Balance carried forward		90,930.64	90,930.64	90,930.64
July 1	Balance brought forward			90,930.64	90,930.64
<hr/>					
Date	Particulars	Folio	Dr.	Cr.	Balance
1944 Oct. 10	Balance Due to Other Banks				
<hr/>					
Date	Particulars	Folio	Dr.	Cr.	Balance
1944 Oct. 23	Balance at 23rd Dec. 1941				
1944 Oct. 10	1st Payt of 2079		72,792.44		169,847.04
<hr/>					
1944 Dec. 23	Balance at 23rd Dec				
1944 Oct. 10	1st Payment of 2079		58,841.86		196,139.53
<hr/>					
1944 Dec. 10	1st Payment of 2079				
<hr/>					
1944 Dec. 10	1st Payment of 2079				

BALANCES DUE TO OTHER BANKS.

Date	Particulars	Folio	Dr.	Cr.	Balance
1941	Balance at 23rd Dec 1941				438,781.01
1941 Oct. 10	1st Payment to Rian Chiang Bank		72,792.44		438,781.01
	do Hwang Lee Bank		58,841.86		307,146.71

CURRENT DEPOSIT ACCOUNTS.

(155)

Date	Particulars	Folio	Dr.	Cr.	Balance
1941					
Dec 23	Balance at 16.12.23			1745 195 89	1,745,195 89
	Amount of three cheques paid		3980 -		1,741,215 89
1944					
April 10	Payment to Zaiminsha Co Japanese Internment Camp	3	7648 -		1,733,567 89
Sept 1	Amount paid by P.B. for deduction payment to Current of deposits CA	CA	50,000. -		1,683,567 89
	Transfer from Fixed Deposit of of part payment of D.R. no. 18/26/49			300 -	1,683,867 89
	do - of part payment of D.R. no. 18/31			150 -	1,684,017 89
Nov. 2	do - of part payment of D.R. no. 18/47			600. -	1,684,617 89
30	Transfer from Temporary Receipts of no. 18/76 Balances of payments of 1949			10,782 17	1,695,400 06

RESPONDENT'S EXHIBIT No. "14."*Exhibits.***Extract from Cash Book of Yokohama Specie Bank as Liquidator of the Chartered Bank of
India, Australia & China.**

14.
Extract
from
Cash Book
of
Yokohama
Specie Bank
as
Liquidator
of
Chartered
Bank of
India,
Australia
& China
(undated).

CASH A/c

CASH A/c

123 (156)

1

Date	No.	Particulars	Folio	Dr.	Cr.	Balance
1941						
Dec. 23		Cash Balance for Charities Bank books		93 776 11		
		Cash belonging to Mr. A.D. Hunt		37 37		
		do. K.C. Bellott		5 13		
		do. Mrs. A.D. Hunt		11 44		
		Cash excess		- 10		
		Amount of three cheques paid			3980 -	
		Amount of petty charges paid			5 91	
		Street Hotel (bill under Dublin 20 but not included in Cash Balance)		2 385 55		
		Actual Cash in Hand			92229 79	
				96 215 70	96 215 70	
Dec 31		Cash taken over from Charities Bank as per above		92 229 79		
1942						
Jan. 1		Balance to L.B.D. staff paid by treasury		279 02		
" 30		Overdraft % Eng. Hui		252 -		
" 30		do. Hoke Hie		2 000 -		
" 30		do. Yang Sing Shau		1 000 -		
" 30		do. Hong Joo Ho		75 -		
June 6		Purch. of British Notes No. 75 exchange at par			1374 15	
1942		Detail per Statement from Treasury		95 835 81	1374 15	Dr. 94461 66
Mar. 3		Mrs. Margaret's % Interest for Dec. 1941 to Jan. 1942		60 -		
" 6		Overdraft % Fishing Industry Association		287 53		
" 7		Mrs. Margaret's % of Refund of Interest paid			60 -	
April 22		Overdraft % Fishing Industry Association		71 27		
June 2		do. - Augustine Shing		300 -		
" 19		Printing Office for 40 B notes stamp			23 75	
" 24		Municipal Dept. % Post program of interest on loan for interest on L.B.D. staff paid by treasury			396 21	
" 26		Overdraft % Augustine Shing			119 -	
July 6		Overdraft % Augustine Shing		500 -		
" 13		do. Apr. Sing Hui		4 564 56		
" 13		Interest % do.		253 08		
" 16		Overdraft % Sing Lee Hui do.		1 183 49		
" 16		Interest % do.		74 11		
				103 129 85	1973 11	

Date	No.	Particulars	Folio	Dr.	Cr.	Balance
1942						
July 28		B. forward		103 129 85	1973 11	
" 31		Balance to L.B.D. staff paid by treasury		2 900 -	170 -	
" 31		do. do.		100 -		
Aug. 4		do. do.		1 000 -		
" 5		do. do.		200 -		
" 6		do. Augustine Shing		100 -		
" 11		do. Jang Hui Hui		9 798 93		
" 11		Interest % do.		542 83		
		Balance c/d down			115 628 50	
		Detail per Statement from Registration Dept. showing cheque No. 71304 for \$115,628.50.		117 771 61	117 771 61	
Aug. 17		Balance c/d down		115 628 50		Dr. 115 628 50
Aug. 14		Overdraft % Brain Sing		426 95		
" 14		Interest % do.		35 83		
" 14		Overdraft % Jan Hong Shing		494 03		
" 14		Interest % do.		217 12		
" 3		Overdraft % Whatt Co		1741 47		
" 31		Interest % do.		117 94		
Sept. 3		Overdraft % Joo Co.		2492 21		
" 3		Interest % do.		171 34		
" 4		Overdraft % Hhs Hui Lee		1 849 92		
" 4		Interest % do.		108 57		
" 8		Overdraft % Fishing Industry Association		64 -		
" 10		do. Shau Shing		2 709 89		
" 10		Interest % do.		169 90		
" 15		Overdraft % Augustine Shing		100 -		
" 22		do. Yee Hong Hui		665 09		
" 22		Interest % do.		65 35		
" 22 311751		Registration Expenses on credit to L.B.D. staff			13 20	
" 22 311752		do. Expense incurred August 1942 to August 1942 for L.B.D. staff			15 60	
" 22		Overdraft % Jan Sun Hui		200 -		
				127 258 05	127 258 05	

Date	No.	Particulars	Folio	Dr.	Cr.	Balance
1940		B Forward		223 538 88 215 835 53	7703 35	215835 53
May 30		Overdraft A/c Augustine Chong	22	500 -		216335 53
June 1		Rent of Y.S.B.	41	150 -		216485 53
10		Overdraft of Augustine Chong	22	500 -		216545 53
24		Rent of Shirakawa En	41	60 -		216545 53
						219,045-53
29		Overdraft A/c Abang Sulaman (Date Amar)	22	2 000 -		219,045-53
July 3		Rent of Y.S.B.	41	150 -		219,195-53
Aug 2		do do	41	150 -		219,345-53
17		Overdraft of Tan Sun Guan	22	6,800 -		226,145-53
21		do Augustine Chong	22	1,000 -		227,145-53
23		Post of amount left to the Sale Bank of both Branches, M.P.	90		28,000 -	199,145-53
31		Rent of Y.S.B.	41	150 -		199,295-53
Sept 1		Current Deposit of Y.S.B.	2		50,000 -	149,295-53
11		Rent of Shirakawa En	41	60 -		149,355-53
						152,355-53
25		Overdraft A/c Tan Sun Guan	22	3,000 -		152,355-53
		do Choy Keng Kee	22	60 -		152,415-53
Oct 3		Settling Debts of Simon King	91	5 -		
5		Rent of Shirakawa En	41	60 -		
		do Y.S.B.	41	150 -		152,630-53
10		Balance Due to Other Banks (B.C. Bk & K.L. Bk)	1		131,634-30	20,996-23
14		Overdraft A/c Tan Sun Guan	22	397-24		
		Interest A/c do	101	1,102-76		22,496-23
Nov 2		Rent A/c Y.S.B.	41	150 -		22646-23
		Overdraft A/c Soon Yong Keng	22	4,192-84		
		Interest A/c do	101	920-12		27,759-19
11		Rent A/c Nisan Koon	41	945 -		
		do Y.S.B.	41	150 -		28,854-19
30		Current Deposit of	2	10,782-17		39,636-36

RESPONDENT'S EXHIBIT No. " 15."*Exhibits.*

Extract from Account Book recording payment of 30% of Deposits to Pre-occupation Customers of Chartered Bank of India, Australia & China by Yokohama Specie Bank as Liquidator.

15.
 Extract
 from
 account
 book
 recording
 payment
 of 30% of
 deposits to
 pre-
 occupation
 customers
 of
 Chartered
 Bank of
 India,
 Australia
 & China by
 Yokohama
 Specie Bank
 as
 Liquidator
 (undated).

Exhibit 15 - page 1.

		Check No	\$ - ¢
Sept	1	Paup to Lee Buek Sang at C.B. Local Staff. Inv. Fund	206 - 236-96 ✓
	2	do Phang Sang Maillah 292832 ✓	3, 328-91 ✓
	4	do Lam Hong Chiang he 20% 299938 -	23-78 ✓
		do Mohd. Wasdy bin Haji Sa'at 294024 -	143-47 ✓
		do Phang Haj Mustapha 288936 -	51 - ✓
	5	do Mohd. Wahy bin Lunawan 747969 ✓	237-17 ✓
		do Lim Eng Phuan 207 - X	293-40 ✓
	9	do Lim Soon Bee 288938 ✓	23-79 ✓
	14	do Lim Siu Koh (H) 293367 -	46-50 ✓
		do Lim Kim Yuen 299259 ✓	1-50 ✓
		do Chan Eng Shih 29563 ✓	300 - ✓
		do Liao Shudis 289143 -	635-36 ✓
	16	do Koho Ma Sien 24587 ✓	372-14 ✓
	18	do J. T. Cecil Wilson 294337 ✓	2-17 ✓
		do A. Lu Kan Tak 295360 ✓	9-01 ✓
		do Luome Star 309303 ✓	10-11 ✓
	19	do Kwong Lee 288939 -	421-47 ✓
	20	do Cheong Kim Long 298170 ✓	1,406-08 ✓
	21	do Dr. Tan Sim Poh 291142 -	3,073-37 ✓
	22	do Ong Guan Mun 286639 -	1,741-66 ✓
			12,357-85

Exhibit 15 - page 3.

1944 Nov.	20	<p>B. Troaid</p> <p>Part payment to Honno 278486 ✓</p> <p>Stamp for credit of K. Kurokawa</p> <p>do for credit of Y. Kurokawa 278487 ✓</p> <p>do Lee Chiu Shin 288744 Series</p>	37	<p>16669</p> <p>35446</p> <p>59748</p> <p>4920</p> <p>16723</p>
			13	58718

Exhibit 15 - page 4.

Balances Due to Other Banks

1942					
Oct.	10	Part payment to Asian Cheong Bank	53959	72,	792-44
		- Kwong Lee Bk	72444	58,	841-86

RESPONDENT'S EXHIBIT No. "17."

Translation of Balance Sheet of Yokohama Specie Bank as Liquidator of The Chartered Bank of India, Australia & China.

Exhibits.

17.

Translation of Balance Sheet of Yokohama Specie Bank as Liquidator of Chartered Bank of India, Australia & China, 31st October 1944.

"117" (16-1)
 Sm Standen
 22/1/53

THE CHARTERED BANK OF INDIA, AUSTRALIA & CHINA, KUCHING,
 (IN LIQUIDATION)

BALANCE SHEET AS AT 31st OCTOBER, 1944.

ASSETS

22,456-25 Cash deposited with Yokohama Specie Bank, Ltd.

24,969-35 Cash (Reserve for payment of Liabilities)

30,543-35 Balance due by other Banks (1)

334-31 Bullion & Foreign A/c

4,671-25 Bad Debts (3 Non-Enemy)

57,806-13 Overdrafts (Non-Enemy) (20) 47,426-37
 (Enemy) (31) 10,379-82

2,160-83 Sundry Debtors & Advances (Non-Enemy) (6) 572-00
 (Enemy) (2) 1588-83

41-76 Stamps A/c

9,200-00 Bank Premises

1,658-76 Office & House Furniture

586-21 Bills Bought A/c (Enemy B)

2,700,000-00 London Exchange Fixed Deposit A/c (1 Enemy)

392,472-97 Current Account with Branches (13 Enemy)

3,783-76 Bills held on a/c H.O. & Others (Non-Enemy) (14) 3,516-87
 (Enemy) (1) 266-89

28,000-00 Pool A/c
 Amount trfd. to the State Bank of North Borneo, Api.

Profit & Loss A/c (During Shuicho's Time)

Petty charges paid by Shuicho 5-91
 Salaries to C.M.I. Staff -85- 1,374-15
 Liquidation Expenses 703-36

1,761-83 Less Interest collected 327-19

33,280,487-45

LIABILITIES

Current Account Balances (Non-Enemy) 175,136-13
 Less amount paid 24,580-65

(Enemy) 154,555-48
1,554,431-76

Balances due to other Banks (Non-Enemy) 438,781-01
 Less amount paid 131,634-30

Fixed Deposit (Non-Enemy) 9,208-76
 Less amount paid 450-00

(Enemy) 8,758-76
993,235-52

Provision for Bad Debts 34,167-81

Deposits on account T.I. &c. (9 Enemy) 176,622-98

Drafts Sold (7 ") 2,090-39

Sundry Clients (1 Non-Enemy) 791-28

Bills received for Collection (Non-Enemy) 14) 3,516-87
 (Enemy) 1) 266-89

Temporary Receipt 54-04

Profit & Loss A/c (Before Liquidation) 37,307-96

Profit & Loss A/c
 Interest collected by Y.I.S. 3,693-43
 House/Rent -80- 4,250-00

Less Liquidation Expenses
 7,553-43
1,012-20

6,340-53

33,280,487-45

RESPONDENT'S EXHIBIT No. "18."

Exhibits.

Translation of Notice in Chinese regarding unfreezing of 30% of the Chartered Bank of India, Australia & China Pre-occupation Account Balances.

18.

Translation of Notice in Chinese regarding unfreezing of 30% of Chartered Bank of India, Australia & China pre-occupation account balances (undated).

RE PAYMENT OF DEPOSITS IN CHARTERED BANK.

Dear Sir,

In the Kuching branch of the Chartered Bank which is being liquidated by this bank you still have a credit balance—current account/fix deposit account—amounting to ~~(\$421.47)~~ (\$2,357.23).

10 In pursuance of the Military order to the effect that 30 per cent. of the credit balance shall be paid you are requested to produce and hand in this bank accounts, cheque books and fix deposit certificates etc. within (3 months) between 1st September and 30th November. Under the circumstances we hereby give you notice and hope you will acknowledge.

Those having the right to receive payments but having lost their certificates are also requested to give notice to this bank on or before the 30th of November after which date no payment shall be made.

Yours faithfully,

YOKOHAMA SPECIE BANK,

Kuching Branch,

Liquidator of (Chartered Bank).

20

To Mr. William Tan.

Translated by ?

Sworn Interpreter, Supreme Court, Singapore.

RESPONDENT'S EXHIBIT No. "20."

**List of Pre-occupation Customers of the Chartered Bank of India, Australia & China
withdrawing 30% of Balances.**

Exhibits.

20.

List of
pre-
occupation
customers
of
Chartered
Bank of
India,
Australia
& China
with-
drawing
30% of
balances
(undated).

RESPONDENT'S EXHIBIT No. "20."

**List of Pre-occupation Customers of the Chartered Bank of India, Australia & China
withdrawing 30% of Balances.**

Exhibits.

20.
List of
pre-
occupation
customers
of
Chartered
Bank of
India,
Australia
& China
with-
drawing
30% of
balances
(undated).

RESPONDENT'S EXHIBIT No. "18."

Exhibits.

Translation of Notice in Chinese regarding unfreezing of 30% of the Chartered Bank of India, Australia & China Pre-occupation Account Balances.

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Translation of Notice in Chinese regarding unfreezing of 30% of Chartered Bank of India, Australia & China pre-occupation account balances (undated).

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Yours faithfully,

YOKOHAMA SPECIE BANK,

Kuching Branch,

Liquidator of (Chartered Bank).

20

To Mr. William Tan.

Translated by ?

Sworn Interpreter, Supreme Court, Singapore.

List of Current Account Depositors

Credit Balances under \$200.-

30% Dividend on Credit Balances

NAME	Profession	Cr. Balance	Amount
<u>CHINESE</u>			
Ang Cheng Ho	Goldsmith	\$ 13-19	\$ 3-95
Chen Fow	Clerk	25-32	8-70
Chong Fook Kwee	Gold Miner	107-31	32-19
Foo, Andrew	Teacher	80-00	24.-
Fong Hai Kee	Sundry Dealers	4-74	1-42
Foo Hoe & Co.	Carpenters	24-34	7-45
Gwee Ah Shin, Louis	Clerk	2-38	-71
Heng Huat	Grocers	4-80	1-38
Ho Ah Khiew	Planter	12-40	3-72
Hoe Hong	General Merchants	198-97	(9) 59-69
Hon Chon Vong	Government Pensioner	5.-	1-50
Hwa Lan Co.	Sundry Dealers	4-17	1-25
Huang Tseng Ann	Teachers	45-24	13-57
Kian Guan	Grocers	-07	-02
Krokong Gold Mining Syndicate Ltd.	Gold Miners	37-01	11-10
Ku Yick	Sundry Dealers	2-65	-73
Lee Chin Shin	Clerk	164.-	43-20
Lee Hon Fah, Anthony	Clerk	30-03	(9) 9-01
Lee Swee Hock	Sanitary Inspector	121-09	36-32
Lian Hap Gold Mining Co. Ltd.	Gold Miners	31-22	27-36
Lim Ann Soon	Merchant	15-91	4-77
Lim Bah Too	Merchant	15.-	4-50
Lim, J. A.	Planter	71-24	21-37
Lim Kim Yan	Retired Clerk	5.-	(9) 1-50
Lim Soon Bee	Clerk	79-30	(9) 23-79
Loh Liang Ho	Tinsmiths	53-26	15-97
Liu Nyuk Kim	Clerk	15-50	4-65
Ong Kim Tin, Dr.	Medical Practitioner	-20	-06
Sarawak Times	Publishers	52-28	15-63
	Carried forward	\$ 1,285-64	\$ 385-62

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Ex 20

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117

11

Credit Balances under \$200.-

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(2)

168

Name	Profession	Gr. Balance	Amount
CHINESE (Cont'd)	Brought forward	\$ 1,285-64	\$ 385-62
Sebauh Sawmill	Sawmillers	160-35	18-10
Sim Joo Choon	Clerk	3-25	2-47
Sim Siew Choo(f)	Wife of Ngui Ah Thiam	155.-	(9) 46-50
Tan Hong Chiang No.2 a/c	Merchants	79-27	(9) 23-78
Tan Sun Guan & Son	General Merchants	91-72	27-51
Voon Guan Choon	Gold Miner	47-71	(9) 14-31
Wu Poh Long	Draughtsman	11-38	3-41
	Total	\$ 1,839-32	\$ 551-70

JAPANESE

Nakagawa, T.	Dental Surgeon	\$ 8-74	\$ 2-52
Shimizu, Denshiro	Planter	25-70	7-71
	Total	\$ 34-44	\$ 10-33

INDIAN

De Silva, J. T. Cecil	Clerk	7-25	(9) 2-17
Liberty Silk Store	Cloth Merchants	47-76	14-32
Luxmi Store	do.	33-70	(9) 10-11
Motiram Moolchand	do.	-90	-27
Nair, V. S. S.	Shopkeeper	21-19	6-35
Pillai, T. M. A.	Government Servant	20-42	6-12
Sher Dil Khan	Army Officer	60.-	18.-
Supramaniam, Dr. G. J.	Medical Practitioner	170-03	51.-
Rosarie, Mrs. R.	Wife of J. Carnal	30.-	9.-
	Total	\$ 391-25	\$ 117-34

PORTUGUESE

Rosario, E.	Retired Clerk	\$ 12-49	\$ 3-74
	Total	\$ 12-49	\$ 3-74

Credit Balances under \$200.-

Name	Profession	Cr. Balance	Amount
<u>DAYAK</u>			
Bay, Barbara (f)	Taxi Owner	\$ 2-29	\$ -68
Jerah, E.	Clerk	36-36	10-90
	Total	\$ 33-65	\$ 11-58
<u>MILANO</u>			
Harry, J. A.	Clerk	\$ 1-40	\$ -42
	Total	\$ 1-40	\$ -42
<u>MALAY</u>			
Abdillah bin Haji Baki	Overseer	\$ 26-65	\$ 7-99
Abdul Rahman & Bros., H. K.	Stationers	33-51	10-05
Ahim bin Haji Soot	Retired Clerk	97-55	29-26
Mustapha, Abang Haji	Native Officer	170-03	(9) 51.-
		\$ 327-74	\$ 98-30



Credit Balances above \$200.- but under \$1,000.-

(4)

Name	Profession	Cr. Balance	Amount
Chin Choon	Merchants	790-59	237-18
Chin Heat Hin & Co.	Bicycle Dealers	776-23	232-86
Chong & Co.	General Merchants	634-32	190-29
Han Wah Fong	Importer	207-43	62-22
Hiap Soon Hin	General Merchants	210-87	63-26
Ho Hong Soon	Dispenser	517-87	155-36
Lau Kiong Nghee	Merchants	700.-	210.-
Lau Cheng Puang	do.	395-19	118-55
Lim & Co., F. W.	Sawmillers	678-03	203-40
Lim Ghim Swee	Merchants	537-50	161-29
Loh Mang Sun, Dr.	Medical Practitioner	518-49	189-34
Lo Tian Yin	Planter	269-83	80-94
Ong Guan Hin	Gold Miner	391-96	114-53
S'buran Gold Mining Co.	Gold Miners	621-65	186-49
Sim Ah Tuck	Timber Dealer	279-82	83-94
Syn Kim Eng	General Merchants	540-48	162-14
Ted & Co.	Piecegoods Dealers	715-27	214-53
Tay Kwan Hian	Commission Agents	326-70	98-01
Wah Hen	General Merchants	335-70	100-71
Wong Shuk Chee No.2 a/c	Planter	398-75	119-62
Yeo Soon Siew	Retired Clerk	294-50	63-33
	Total	\$ 10,231-18	\$ 3,069-26

Credit Balances above \$200.- but under \$1,000.-

(5)

Name	Profession	Cr. Balance	Amount
<u>DAYAK</u>			
Mason, C.	Dresser	\$ 218-26	\$ (9) 65-47
	Total	\$ 218-26	\$ 65-47
<u>INDIAN</u>			
Ana Sulaiman	Piecegoods	\$ 458-71	\$ 131-61
Soekalingam, Dr. M.	Medical Practitioner	369-19	110-75
	Total	\$ 827-90	\$ 242-36
<u>MALAY</u>			
Abang Haji Abdul Rahim ✓	Native Officer	\$ 363-49	\$ 109-02
Sitam bin Leman	Retina Forest Inspector	703-84	(9) 213-15
Wasli bin Haji Sa'a, Mohamed	Surveyor	478-26	(9) 143-47
	Total	\$ 1,545-59	\$ 465-64
<u>INTERNATIONAL</u>			
St. Michael's Catholic Club	Social	\$ 341-03	\$ 102-30
	Total	\$ 341-03	\$ 102-30

Revised to
1/1/50

(171)

Credit Balances above \$1,000.-

(6)

Name	Profession	Cr. Balance	Amount
<u>HIESE</u>			
ong Nyuk Poh	Retired Clerk	\$ 10,331-75	\$ 3,099-52 <i>paid by C.R.S.</i>
hin Chiang	Exporters	4,289-99	1,286-99
hong Kim Eng	General Merchants	4,686-95	(9) 1,406-08 <i>paid by C.R.S.</i>
hoc Ah Siew	Clerk	1,240-47	(9) 372-14 <i>paid by C.R.S.</i>
han Ping Shih	Teacher	1,000.-	(9) 300.- <i>paid by C.R.S.</i>
eply Co., Ltd.	Shipping Company	1,216-25	564-87
uching Steam Saw Mills	Sawmillers	3,106-30	931-89
ng Guan Ann	Gold Miner	5,305-54	(9) 1,741-66 <i>paid by C.R.S.</i>
ng Kee Hin	do.	4,368-04	1,316-41
aris Studio	Photographers	2,117-85	(9) 635-36 <i>paid by C.R.S.</i>
ai Seng & Co.	Exporters	14,665-22	4,399-56
an Choon Kee (F)	Wife of Then	1,372-82	411-94 <i>paid by C.R.S.</i>
an Sim Poh, Dr.	Medical Practitioner	10,244-59	(9) 3,073-37 <i>paid by C.R.S.</i>
an Soon Ewe	Cashier	1,404-92	(9) 421-47 <i>paid by C.R.S.</i>
an, William	Contractor	2,357-25	707-16
hang Ek Long (Deceased)		11,000.-	3,300.- <i>paid by C.R.S.</i>
ong, T., E. William	Planter	1,464-06	439-21 <i>Remitted by C.R.S.</i>
ap Ah Noh (F)	Widow of the Late Choo Ah Hyan	1,134-68	340-40 <i>paid by C.R.S.</i>
ap Ghee Heng	Retired Wharfinger	30,780-03	9,234-00 <i>paid by C.R.S.</i>
Chartered Bank Local Staff Provident Fund		6,282-21	1,834-66
	Total	\$ 118,888-95	\$ 35,666-59

Credit Balances above \$1,000.-

(7)

Name	Profession	Cr. Balance	Amount
<u>JAPANESE</u>			
Murahara, Korekado	Director, Nisse Shokai, Ltd.	\$ 1,161-56	\$ 354-46
Muroaki, Yasuko	Manager, Nisse Shokai, Ltd.	1,991-63	597-48
	Total	<u>\$ 3,173-19</u>	<u>\$ 951-94</u>
<u>SIAM</u>			
Bank Co-operative Ltd.	Co-operative Society	\$ 9,540-00	\$ 2,962.-
Bank Building Co., Ltd.	House Owners	4,338-34	1,301-05
Tan, Jane (f)	Nurse	2,560.-	768.-
Siam Dyak United Co., Ltd.	Merchants	1,867-96	560-38
	Total	<u>\$ 18,504-80</u>	<u>\$ 5,491-43</u>
<u>MALAY</u>			
Mang Haji Abdillah	Datu Patinggi	\$ 11,096-39	\$ 3,328-91
Mawak Mosque Fund	Religious	1,550.-	465.-
	Total	<u>\$ 12,646-39</u>	<u>\$ 3,793-91</u>
<u>EUROPEAN & AMERICAN (NON-ENEMY)</u>			
Effect Apostolic of the Roman Catholic Church	Religious	\$ 7,665.-	\$ 2,299-50
. Teresa's Convent	Educational	2,668-55	800-56
		<u>\$ 10,333-55</u>	<u>\$ 3,100-06</u>

In the Privy Council.

ON APPEAL
*FROM THE COURT OF APPEAL OF SARAWAK, NORTH BORNEO
AND BRUNEI.*

BETWEEN
THE CHARTERED BANK OF INDIA, AUSTRALIA
& CHINA (Defendant) *Appellants*

/ **AND**
WEE KHENG CHIANG (Plaintiff) *Respondent.*

RECORD OF PROCEEDINGS

LINKLATERS & PAINES,
AUSTIN FRIARS HOUSE,
6 AUSTIN FRIARS,
LONDON, E.C.2,
Appellants' Solicitors.

LAWRANCE, MESSER & CO.,
16 COLEMAN STREET,
LONDON, E.C.2,
Respondent's Solicitors.