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November 20, 1946

Comments of Jewish Organizations Respecting Draft of 18 October 1946 Of Restitution Law for the American zone of Germany

A. Sections 3 and 3a

Section 3a is an improvement over the draft of September 23, 1946. The proviso for cases in which the "other party protected the interests of the claimant or his predecessor in interest in an unusual manner and with substantial success" should be reexamined because of the likelihood of abuse. It happened frequently that Jewish owners menaced by Nazi threats of confiscation found themselves obliged to sell to persons who had sufficient influence to induce the Nazis to stay their hand. The owner thus got something for his property instead of having it taken from him without any return at all. In many of these cases the sum obtained was subsequently confiscated in whole or in part. In such and similar cases the holder will certainly invoke the provisions just quoted and, because of the difficulty to rebuke such contentions, they may often be advanced without any basis in fact.

Furthermore, there is a difference in the language of Sections 3 and 3a, insofar as Section 3 and, in fact the whole law, deals with Rueckerstattungsansprueche (claims to restitution) while Section 3a introduces the procedural remedy of the Anfechtungsklage (voidance). This distinction found explicit recognition in Par. 6 of the draft. This would tend to show that there is actually intended to be a difference in the meaning of these two terms. However, the procedural provisions of the draft deal exclusively with Rueckstellungsansprueche and do not provide for the procedure to be followed in the Anfechtungsklage.

It is, therefore, suggested to replace Section 3a by the following two paragraphs, which are in line with the draft as of September 2, to be added to Section 3, and to read as follows:

> "The same presumption shall hold for the benefit of a person who belonged to a group of persons which in its entirety was to be excluded by persecutory measures of the State or Nazi Party, as set forth in Section 1, from the cultural and economic life of Germany, in regard to transactions entered into by him within the period from January 30, 1933 and May 8, 1945.
>
> The presumption can be overcome only by establishing that the transaction would have taken place even in the absence of National Socialism."

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The words "and the right of avoidance as stated in Section 3a" in Par. 6 are to be deleted.

B. Section 5

This Section exempts certain transactions from the application of the restitution law but does not stipulate what shall be their fate. In fact, all these arrangements are of fictitious nature (many may have the form of a sale or similar transaction) and, therefore, the property should be returned to the owner. It would serve a good purpose if Section 5 would stipulate that such arrangements are considered terminated and the former status has to be restored.

C. Section 6

(1) Paragraph two dealing with the problem of succession to claims of "corporations and unincorporated associations" forced to disband or otherwise extinguished under National Socialism. First, the draft as it stands might easily be interpreted in such a way that the property belonging to Jewish communities or other organized Jewish bodies, foundations or endowments shall, to a large degree, escheat to the German Reich. Most of these communities and foundations are de facto or de lege no more extant. The paragraph specifies that the claim to their property shall be made by such a body which, by meeting certain criteria, "may be deemed to be successor to the injured party." Because of the decimation of German Jewry it might easily be that in many cases such criteria will not be found to apply. Since the provisions of Article 1936 of the Civil Code do not cover such bodies (in case of foundations, for instance, Section 45ff BGB applies), there is the strong probability that property of these bodies will be claimed by the German state. Second, furthermore, it is left to the German "appropriate Ministry" to decide whether the conditions just mentioned have been met. It is highly inappropriate that German governmental authorities should determine such conditions particularly in cases where there might be great discretional power involved. Third, it is not certain that "corporations embrace also communities and foundations. It

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is well known that the German Jewish communities were recognized as public law bodies; much property was held by various foundations (Stiftungen) governed not by commercial law but by Art. 80ff of the Civil Code and for the creation of which special permission was necessary. Fourth, even if some of the communities and foundations were not dissolved or were meanwhile reconstructed, their membership represents only a very small fraction of the original numbers and, in most cases, the assets by far exceed the needs of the few members still in Germany, while those who had created them are dead or abroad. It is therefore suggested to amend the second paragraph to read as follows:

II. "In case the party injured by the confiscation was a corporation or an unincorporated association which was dissolved or forced to dissolve because of persecution within the scope of Section 1. the right to claim restitution is vested in the former holders of the shares or partnerships and the former partners, and in absence of such claimants in the agency referred to in Par. IV of this Section.

III. In case of properties belonging to extinguished communities or foundations, the claim is vested in the said agency. If the community or foundation is still in existence or has been reestablished, the claim shall remain vested in this body notwithstanding its present size. The reclaimed property shall be divided between this body and the said agency in mutual agreement in an equitable proportion taking into account the present needs of the community or foundation in question."

(2) The third paragraph, while containing a fair nucleus, is not appropriate in many respects. First, the use of the properties is not adequately stated, i.e., it is not sure that Jewish properties will be used for Jewish purposes only. Second, it is left to the successor of the German Reich to establish the association which will succeed to the claims of persons murdered on direct order of the Government of that Reich. If the wording remains unchanged, the masterless and unclaimed Jewish properties may well be vested in organizations which will neither represent the surviving member of the group the former owners belonged to (Jews), nor use it for purposes established in many precedents (e.g., the Greek law No. 808/1946 assigning Jewish masterless properties for Jewish purposes, a similar law enacted in Hungary on October 7, 1946; the provisions of the economic clauses of the Paris Peace Treaties concerning the satellite nations, and the agreements reached in Paris last December and this June concerning the assignment of 95% of all masterless

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properties in neutral countries for Jewish purposes.) Thirdly, there will be cases of properties unclaimed by the owner where Section 1936 of the Civil Code may formally not be applicable. It is, therefore, proposed that this paragraph be amended to read as follows:

> "In cases where Section 1936 of the Civil Code would apply or the property is not claimed within the period provided for in this law, agencies designated by the Military Governor or his successor as representative of the occupying power shall succeed to the claims for restitution, under total exclusion of the State Treasury or other public bodies. Every agency shall be constituted on nomination by organizations, in Germany or outside of Germany, representing the interest of the persons belonging to the respective groups referred to in Section 3, Par. II. The property or its proceeds shall be used exclusively for purposes of rehabilitation and resettlement of persons belonging to the group of which the rightful owner was a member."

Reference is also made to Section 50 of this draft.

D. Section 9.

This section is tending to restrict restitution beyond the limits set in Sections 2 and 3 by excluding from the provisions of the law cases of "eminent domain". It must be stressed that the right of eminent domain (Enteignung) in Nazi Germany was very extensive. Thus a large number of Jewish confiscated properties will fall under the provision of Section 9, and will not be restituted to the rightful owner. In most cases, however, they were expropriated and assigned for purposes dealt with in Section 9 just because they had been previously confiscated and for no other reason. It therefore cannot be claimed that they would have been expropriated for public purposes, even if they had not belonged to a discriminated person. Furthermore, when a property is expropriated for public use, full compensation is generally paid (such compensation was not paid the Jews) and the owner is in a position to acquire other assets of similar kind, which was made impossible for persecutees. Should Section 9 be maintained, the Jewish owner would not only lose the property, but also be deprived of the possibility of getting compensation which every other owner received in such cases since this law does not provide for the payment thereof.

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It is, therefore, suggested that Section 9 should be dropped altogether or should be replaced by the following provision:

"Confiscated property which after the time of confiscation was expropriated or assigned to an enterprise which has the right of eminent domain shall not be subject to restitution in natura insofar as the property is still necessary for such purposes. The holder of the property is, however, required to pay the owner the present value of the object or, at the election of the claimant, to substitute for it a property of equal value or similar nature."

Substitution should not be difficult in view of the multitude of properties falling under the provisions of Military Law No. 52 and the denazification law. Substitution is in fact provided for in Section 12, Par. I of the draft.

E. Section 10 - Par. I of Section 10 should be amended to exclude from the protection it accords those possessors who cannot show that they knew or could not have known the nature of the goods as "confiscated" in the meaning of this law. Section 4 (2) of the Czech restitution decree requires actually that personal property be acquired in good faith in order to have it exempt from restitution.

The limitation of the second sentence to those articles that did not come from private ownership or had not been designated for sale would exclude dealers from the benefit of the law. There is no valid reason for this proviso since it affects highly identifiable properties whose acquirer in almost all cases must have known their source as "confiscated" goods.

There is no reason to deal with "intangible interests" in a way more favorable to the acquirer than of other properties, as these interests are not of the nature of small objects changing hands easily. As more fully shown in the comments on Section 11, securities are so large a part of the confiscated wealth, that it is essential that Section 10 should not apply to intangibles.

It is, therefore, suggested to delete Par. II and to eliminate from Par. I, second sentence, the words "so far as such property came from private ownership or had not been designated for sale". It is furthermore suggested to amend the first sentence of this Section so as to read as follows:

"Tangible personal property which has been acquired by the present holder or his predecessor in interest in the course of ordinary and usual business transactions in an establishment normally dealing in that type of property shall not be subject to restitution, unless the present holder knows or must have known the origin of the property."

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F. Section 11

It is very difficult to prove the fact of knowledge. Therefore, the German law (Section 142 and others) treats equally Kennen and Kennen muessen (to know and must have known). It is therefore suggested that Section 11 be amended to replace the word "Unkenntnis" with "der Erwerber beweist dass er den die Entziehung darstellenden Sachoerhalt weder Kannte noch Kennen musste".

Even such a provision would not meet the problem. This Section deals with a very important matter, as a great part of the wealth of a modern nation is expressed in bearer documents. Should such documents be exempt from restitution, the persecutees will lose a large portion of the fortune. There can be no doubt that, in many cases at least, the acquirer knew or could know the origin of such documents. We would, therefore, suggest that the words "bearer documents" be deleted from this Section. Furthermore, it has to be considered that a large number of shares of commercial and industrial enterprises were issued in Germany "on the bearer". Should "bearer instruments" include shares, their restitution will become impossible. It is legally very difficult to distinguish between ownership in a corporation and in shares. In addition, in most cases, the acquirer must have known the origin of the shares. This is the reason why shares on the bearer must be treated differently from other bearer certificates. The rightful ownership in such shares might, for instance, be established from the records of the companies meetings. The Greek law No. 808/45 provides in Section 8 that "as legal owner of shares on the bearer...is considered the one who appeared as such in the last general assembly, except if the subsequent possessor of these shares proves judicially that he acquired their ownership in a legal way".

It is, therefore, suggested that Section 11 read as follows:

"Money shall not be subject to restitution unless the present holder knew or must have known of the confiscation."

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G. Section 12

Par. I treats of property which underwent fundamental changes considerably ehhancing the value. There are, however, other cases of changes which decreased the value. It is not evident why an exception from restitution should be made only in favor of the present holder while the interests of the rightful owner are not considered at all. There is no valid reason for the whole paragraph since already under Section 21 the owner has to compensate the possessor for expenditures. This will account for the changes which are dealt with in this Section. It is, therefore, suggested that the whole paragraph (together with Par. III) be eliminated, especially since the really important cases are dealt with in Par. II.

H. Section 13

The provisions of this Section seem to be inconsistent with the principles as established under Section 12. We therefore recommend that this Section be rewritten so as to reflect an approach similar to Section 12 as drafted and with such amendments as outlined above.

I. Section 14

The provision of this Section as formulated in the draft of September 23 was very appropriate. There appears to be no reason for eliminating this proviso, one of the few favorable to the claimant. The words "as far as possible" grant sufficient guarantees that nothing impossible could be required under this Section.

J. Sections 16-22

(1) This chapter deals (in addition to the accounting resulting from the possession by a third person) with several cases of damages in case of the impossibility to restitute the property. The draft provides for such payment in exceptional cases only, leaving out the entire complex of those transactions which are being dealt with in Section 3a. Even when personal responsibility is established, there is no guarantee that these losses will actually be recovered by the claimant. We feel that it must be agreed that all such

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losses are the result of the discriminatory practices of the Nazi regime and have to be borne by Germany. It is, therefore, suggested that the Laender and/or any higher German authority when established (as the successors of the Reich) be made responsible for all damage not covered by individuals. The principle of governmental liability, or co-liability, to make compensation should not be construed to oust the liability of the individual possessor of the property any more than governmental liability to make restitution should be a bar to the assertion of individual liability in that regard. It should be left to the government, however, to determine to what extent after the individual has made compensation to the claimant it will make good the respondent's loss or, if the government itself compensates the claimant, whether it will exonerate the individual respondent from sharing the burden. Furthermore, a multitude of properties formerly belonging to the Reich, Nazi Party, individual Nazis, etc., are at present in the administration of the military authorities and German authorities which properties could very well be used to substitute for restitution when the object is not available (a similar proviso is contained in Section 34 of the Dutch decree of September 19, 1944). It is, therefore, suggested that this Chapter be supplemented by the following proviso:

> "The damages resulting from ~~Einziehung~~ confiscation, insofar as they are not recovered in accordance with this law will be indemnified by the Land in whose territory the loss occurred, and/or by any higher German authority when established.
>
> The claimant may demand that, instead of monetary payment, an object similar to the one which was confiscated, be delivered to him by Land out of properties in the administration of public authorities located within this Land."

In addition, an explicit reservation should be inserted in this law that it does not prejudice the right to claim reparation and indemnification for losses not granted by this law.

K. Section 16

~~This Section~~ does not adequately cover the cases in which the property was destroyed only partly or in successive stages in more than one Land. We propose, therefore, to amend Section 16 as follows (amendment underlined):

> "If the claimant cannot regain the confiscated property, or if he can regain it only diminished in value, or only part of it, (oder nur in verringertem Ausmasse oder Werte), he may demand from any previous possessor of the confiscated property or holder of a confiscated interest the surrender of whatever substitute, or the assignment of whatever claim, such possessor or holder may have obtained through the circumstances which prevent restitution in full."

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L. Section 17

This section should be amended to impose a joint and several responsibility on all the persons involved in the acts on which liability is premised.

M. Section 18

The first paragraph deals, as does Section 11, with "knowledge of confiscation." For reasons given there it should be amended to read "proves that he had no knowledge or could not have known" (this refers also to Sections 19 and 20). Furthermore, it is not evident why a person who knew or should have known the origin of the property, shall be liable for the "impossibility of returning the property or because of its deterioration" only where he has been negligent. He acquired it despite this knowledge and has, therefore, to be responsible for the objective loss suffered during the time that the property was not in the possession of the owner. There can be no valid ground to charge the owner with a loss which ocurred during the time in which he was dispossessed of the property.

It should be stated here, as well as in all cases of a multitude of respondents, that they are jointly and severally responsible for damages.

N. Section 19

It is not evident why a possessor in bad faith should be paid for "the management" and "interest on the purchase price." He acquired the property and interest at his own risk. To pay for management and interest would be to pay a premium or requisitions in bad faith. We do not suggest provisions as far-reaching as included in the restitution laws of other countries (see for instance, Section 4 (3) of the French decree of April 21, 1945; Section 4 (3) of the Polish law of March 6, 1945; Section 5 of the Bulgarian restitution law) which simply provide for the restitution of all income received, even with regard to bona fide possessors.

O. Section 21

Par. IV should be extended to cover the cases provided for in Section 19 (i.e. where the possessor knew or must have known the origin). This rule would be in accordance with Sections 990 and 994 of the German Civil Code.

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P. Section 23

It must be considered that liabilities created after dispossession were contracted for the benefit of the possessor and there can be no reason to burden the claimant with them, who did not and could not have profited from them in any way. Even if the aggregate of charges will remain the same, the owner will be at a disadvantage, if - as it is usually done - the debts are repaid from the income of the property. If the value of the property was raised, it will, in many cases, be due to purely monetary developments, namely devaluation of the currency, and will, as a purely nominal increase in value, disappear as soon as the currency is stabilized. For the above reasons, it is suggested to follow the example of other restitution laws (for instance, Section 1 (3) of the Austrian Erstes Rueckstellungsgesetz, Section 6 of the Romanian law of July 30, 1945; Sections 2 and 13 of the Norwegian law of December 18, 1942, and the decree No. 15/1945, respectively; Section 9 of the aforementioned French decree; Section 2 (2) of the Yugoslav decree of May 24, 1945) and to declare all liabilities created after dispossession not binding upon the rightful owner. This proviso is the more just as the person in whose favor the easement was created must have known, in almost all instances, the origin of the property from the inscriptions in the Land or Commercial Register. Taxes and public charges are part of the expenditures and have to be borne by the possessor.

The new version of this Section is particularly unfortunate in view of the fact that the limitation of charges corresponding to the depreciation in the value of the confiscated property has been dropped. On the other hand, the Section still retains the provision that the limitation of charges shall be raised to the extent of the increased value of the property. It is overlooked that the original owner could have, first, paid off the charges through the income of the property; second, that the increase in value of the property, as stated above, may often be based largely on devaluation of the mark.

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In an inflationary situation this provision may be disastrous to the claimant especially since the increased value is likely to be fictitious and accompanied by no corresponding increase in income, if indeed income does not vanish altogether because of the German economic situation and the special difficulties of the claimant's situation. The provisions of the draft will furthermore enable a possessor to burden the property to the hilt with such charges right now or even after promulgation of the law, taking advantage of the formal increase in value of the property, all these increases being made for the benefit of the present possessor solely.

Equally, it should be made clear that leases and other obligations entered into by the possessor are binding upon the rightful owner for a brief period only. Otherwise, the rightful owner could be deprived of the use of the property by means of wrongful leases and other contracts. Voidness of such obligations is the logical consequence of the fact that the transfer of the property is null or void. Section 1 (3) of the Austrian Erstes Ruckstellungsgesetz and Section 2 of the aforementioned Italian-decree law contain a provision to this effect.

Q. Section 28

Par. I of this Section should be changed to conform with the proposed new version of Section 23, i.e., the second sentence should be eliminated. The first sentence should be changed to provide that the owner has to repay only that part of the consideration received of which he could actually freely dispose. It must be stressed that very often the consideration received was taken away by the State through various discriminatory taxes and levies (Reichsfluchtsteuer, Judenabgabe, etc.), or seized or blocked subsequently. Such a proviso is actually contained in Section 6 of the aforementioned French decree. Many restitution laws totally eliminate the repayment of the price received, as for instance Section 3 of the Luxembourg decree of April 22, 1941; Section 3 of the Belgian decree of January 4, 1941; Section 3 of the Norwegian decree No.15/1945. Should repayment be made obligatory, we would propose to amend Par. 3 by inserting, after the first sentence, the words:

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"Insoweit der Erwerber aus der empfangenen Gegenleistung Zahlungen auf Grund der in Artikel 1 genannten Gesetze und Massnahmen zu leisten hatte, wie zum Beispiel Reichsfluchtsteuer oder Judenvermoegensabgabe wird angenommen dass er ueber die Gegenleistung nicht frei verfuegen konnte."

R. Section 30

Par. I should be amended so as to make easy repayment obligatory instead of discretionary with the Court.

In Par. II payment of interest should be eliminated, at least in cases of duress and knowledge of confiscation.

S. Section 31

Although the second paragraph contains useful elements for alleviating the difficulties involved in the loss of documentary evidence through emigration, deportation and otherwise, it is by no means sufficient to cope with them. Other restitution laws (Section 26 of the Polish law, Section 13 (2) of the Romanian law) recognize the impossibility of furnishing formal proofs and permit all means of probation provided in civil law. Since German laws admit affidavits (eidesstattliche Versicherung) as evidence, it is suggested that the second paragraph be amended to read:

"In ascertaining the facts of the case, the Restitution Agency and the Court shall admit in all cases, as evidence on the part of the claimant all means of probation, including affidavits by the claimant himself."

T. Section 38

The last paragraph creates the possibility of filing tort claims in ordinary courts but does not state within what period, i.e. whether the ordinary period of statutes of limitations starts with the publication of this law and within what time the claim has to be filed. It is also unclear whether these cases of tort are those provided for in Section 16ff or those not covered by these paragraphs. It is, therefore, suggested to stipulate explicitly that Par. III refers to claims not covered by preceding Sections and the period of limitations starts with the publication of the law.

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U. Section 44

The draft provides for the jurisdiction of German courts in all cases of restitution. This is obviously not appropriate since most of the claimants forced out of Germany (the number of Jewish residents in Germany today is insignificant) have meanwhile become foreigners and citizens of foreign countries. As things are now and will continue to be, German judges cannot be expected to be impartial in claims of Jews against fellow-Germans and German authorities. It is therefore suggested to make restitution claims subject to special judicial bodies to be constituted as follows:

> "All claims in the first instance should be presented to a mixed restitution commission, appointed by OMGUS, consisting of an American chairman and a judge designated by the Ministry of Justice, and a representative of the group or race to which the claimant belongs under the definition in paragraph 2 of Section 3. The same basis of selection shall govern the composition of the Appellate Court."

Another example of machinery appropriate to give effect to the underlying principle above noted would be to use the method employed in Sections 47 and 65 of the present draft for the selection of the members of the Court of first instance, but to use for the Appellate Court two members selected by military government, two members selected from the race or class of which the claimant is a member and one selected by the State Minister of Justice, the Appellate Court to have power to review the case as to both facts and law and to make a decision on the case de novo.

We believe that under the provisions of Section 43 of the present draft, it will be possible to cut down to a large extent the number of cases which will come before the courts.

V. Section 48

(1) It is very difficult to decide upon such contentious matters as restitution of property and ancillary damages in the procedure provided for non-contentious litigation (freiwillige Gerichtsbarkeit). It would be more appropriate, therefore, to follow the example of other restitution laws (for instance, the French, the Polish, the Romanian) and use the usual procedure established for contentious litigation (strittige Gerichtsbarkeit) with such modifications as will insure a fair but more speedy procedure.

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(2) Considering the fact that a great many claimants under this law are presently residing outside of Germany and the number of qualified attorneys in Germany who would command the confidence of such claimants is rather limited, it is suggested to add to Section 48 the following provision:

"Persons who on January 30, 1933 were admitted to practice of law in Germany and belong to groups of persons named in Section 3, shall be entitled to represent claimants before the Restitution Agency and the court regardless of their present residence and nationality."

W. Section 49

The Appellate Court should be constituted similarly to the proposal advanced above for the court of the first instance, namely, it should consist of two members appointed by the military authorities, two by the group to which the victim belongs and one by the Land. This body should decide on questions of law and fact and render decisions de novo. Even if it should appear that there would not be sufficient American judges for the courts of the first instance, there will be enough for the second instance, whose number could not be large.

X. Section 50

For obvious reasons, it would be appropriate to centralize the matter dealt with in this Section in the hands of one authority. Instead of vesting the claims in the Public Prosecutor, they should be vested directly in the Agency referred to in Section 6, which will have the special knowledge and personnel required for this task. Furthermore, we consider it undesirable to delay such claims until the period for filing claims has expired, since the properties will meanwhile remain in such case in the hands of the possessors and may be dissipated or devaluated.

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It appears more appropriate to authorize the Agency to file such claims after a period of from 3 - 6 months from the day the law became effective.

The second sentence is very vague and may lead to abandonment of claims as "the presumed intention" can be interpreted at will.

We therefore suggest that Section 50 be amended to read as follows:

"In case a restitution claim is not filed within the period of three months from the effective date of this law, the claim shall be automatically vested in the Agency referred to in Section 6. If a properly recognized claimant should appear at a later date, he may assume the claim in his own name or receive the restituted property or its proceeds from the Agency."

Y. Section 52

This Section charges the claimant with court fees and expenses. Since all claims to be submitted on the basis of the law are the consequences of confiscatory and other measures of the German Reich, it is unjust to require the dispossessed owner to pay for it. Par. IV providing for the right of the court to cancel costs is not sufficient. Other restitution laws have recognized this and have established a cost-free procedure (see, for instance, Section 30 of the Polish, Section 30 of the Romanian, Section 24 of the French, Section 11 of the Italian law of January 20, 1944).

Z. Section 53

The obligation to report should be imposed not only on present and former possessors, but (in accordance with Section 54) also on all persons who have knowledge of confiscated properties. Otherwise many cases of confiscated properties may remain uncovered.

A (1) Section 59

Section 1954 of the Civil Code referred to in Par. II provides for a six-week period within which the claim may be made. In connection with Section 58 all such claims would have to be submitted within six weeks from the effective date of the law, which is obviously too short a period under existing conditions. Since the proviso in Section 39 refers to restitution claims only, this Section should contain an explicit stipulation to the same effect.

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B (1) Section 63

This Section is, in its present wording, very inappropriate since it enumerates only two kinds of claims reserved for subsequent legislation. This could be interpreted as excluding other claims not mentioned therein as, for instance, discriminatory levies, damage in consequence of forced conversion and many others. Furthermore, it should be understood that the provisions of this law are not meant to exclude the use of state and Nazi properties for losses sustained by persons referred to under Section 1 of this law.

We therefore propose to add to Section 63 the following paragraph:

"The provisions of this law shall not be deemed to be prejudicial to further claims under existing law. Future legislation shall provide for reparation for and indemnification of losses not compensated for under this law."

C (1) Section 64

The suggestions referred to in Section 44 (composition of the courts) are valid also for this Section, since the persecutees can place no more trust in administrative German courts than in others. It is, therefore, suggested that this Section should be amended to read that claims under public law are to be decided by the same courts as stated above under Section 44.

D (1) Section 66

It is expected that at a certain date special levies on properties and capital may be introduced to cover the amounts necessary for the payment of war damages or for similar reasons. It would be totally unjust to burden the owners of "confiscated" properties with these taxes, since they have suffered enough damage and were no part of the German community which waged the war. A similar provision is included in the peace treaties with the former satellites.

It is, therefore, suggested to supplement Section 66 by a third paragraph reading as follows:

"Properties falling under this law and payments recovered thereunder shall not be subject to any kind of special taxes to be introduced in the future by Germany, the Laender or other public bodies, be it for the purpose of compensating war damage, paying reparation or similar claims."