**WALTER BRESLAUER**

LL.B. (LOND.), DR. JUR.  
INTERNATIONAL LAWYER  
BIRMINGHAM & LONDON  
TELEGRAMS: HOLBORN 4049.

**ROOM 5, CHICHESTER CHAMBERS,****CHICHESTER RENTS,****CHANCERY LANE,****LONDON, W.C.2**

BIRMINGHAM: 301 BIR 6374260 OF

(AFTER 4 P.M. - 1/2, NORTHWOOD HALL.

HORNSEY LANE, HIGHGATE, N.6.)

TEL: MOUNTVIEW 7117

January 21st. 1948

A. Schoyer, Esq.,  
Council for the Protection of the Rights and Interests  
of Jews from Germany,  
London N.W.3

Dear Mr. Schoyer,

as you will go to Berlin within the near future I should be grateful to you if, in the interest of parties concerned with the carrying through of the provisions of Law 59 Am. Mil. Gov., you could be good enough to draw the attention of the American Property Control Branch to the following facts.

As you will remember it was made clear by Mil. Gov. at the time when Law 59 was not yet enacted, that Trustees of the property of Victims of Nazi Oppression who had been appointed under Law 52 Mil. Gov. were not allowed to inform claimants about the property apart from general information on its existence. This order, rightly or wrongly, has been administered in the Frankfurt district to the effect that the "Aryanizers" too were forbidden to give that information with the purpose to come to an amicable settlement with the victim.

After the enactment of Law 59 a Frankfurt lawyer approached the Frankfurt Amt für Vermögenskontrolle anew with the request to be allowed to give the necessary ~~information~~ information to me as the representative of the victim. He was informed, however, that the Military Government still turn down every such request.

I am not interested at all in the individual case where I have already registered my client's claim at Bad Nauheim and shall get the information required in due course.

But generally speaking ~~it seems~~ that people shall be prevented from coming to an understanding without proceedings and that the work ~~with~~ of the authorities dealing with the administration of the Law is unnecessarily made heavier ~~as~~ than it could be by such a practice. I assume that there is a misunderstanding on the part of a local branch and that

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By C.G.P NARA Date 9/8/99

Room 5, Chichester Chambers

CHICHESTER RENTS,  
CAMBRIDGE UNIVERSITY  
LONDON  
work could be avoided if  
could be informed from Berlin that amicable  
be assisted and not hindered.

WALTER BREISLAUER

the local branches  
INTERNATIONAL LAWYER  
arrangements should

www.novosti.khodat

Yours very sincerely,  
B. P. O. L. Falls Church

(W. Breslauer)

Wiley

#### Yardage in Tab.

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By C4P NARA Date 9/8/19MN  
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1744

17 March 1949

American Federation of Jews from Central Europe, Inc.  
1874 Broadway  
New York 19, New York

Attn: Mr. Rudolf Callmann  
Chairman

Gentlemen:

Reference is made to your letter dated 17 February 1949, addressed to the Legal Division, OCMWUS, which has been referred to this office for reply.

This office has had under consideration for some time the problem discussed in your letter, and a suggested solution thereto, by way of amendments to General License No. 10, has been submitted for approval of concerned Agencies of Military Government. If approved, it is believed that the Amended General License No. 10 issued pursuant to Military Government Law No. 52 (Amended) will substantially resolve the entire matter. Publicity will, of course, be given to General License No. 10 if amended and this will, undoubtedly, be brought to your attention, through publicity or other means.

sincerely,

FRED E. HARTZSCHE  
Chief

308340

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Authority NND 775057  
By C4P NARA Date 9/8/99

## American Federation of Jews from Central Europe, Inc.

1674 BROADWAY • Room 808-809 • Phone Circle 5-7775 • NEW YORK 19, N.Y.

February 17, 1949  
AIRMAILRUDOLF CALLMANN  
*Chairman of the Board*MAX M. WARBURG  
*Former Chairman*NATHAN STEIN  
*President*HERMAN MULLER  
*Exec. Vice President*

## EXECUTIVE COMMITTEE

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RABBI LEO BARRWALD  
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MANFRED GEORGE  
RABBI MAX GRUENEWALD  
KURT H. GRUNEBAUM  
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FRITZ KAUFMANN  
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*Chairman of Finance Committee*  
ALFRED PRAGER  
*Secretary*  
DR. FRITZ SCHLESINGER  
HERMANN E. SIMON  
FRED S. WEISSMANO M G U S, Legal Division  
A.P.O. 742  
c/o Postmaster New York, N.Y.

Dear Sir:

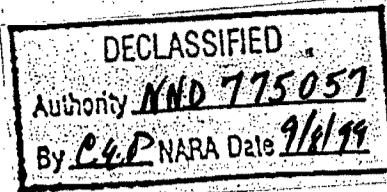
In the interest of numerous members of the group we represent we take the liberty to call your attention to the following matter:

The great majority of our members has restitution claims under Military Law #59. They filed their claims with the Central Filing Agency in Bad Nauheim on or before December 31, 1948. Due to lack of information, evidences or similar reasons many claimants could file a preliminary petition only in accordance with Art. 58 Par. 6 to avoid the loss of their rights. Now they have to complete their petitions or to repeat them in proper form.

Under these circumstances it will become more and more necessary for claimants living outside Germany to retain a lawyer to represent their cases before the Restitution Agencies and Courts and to secure all evidences necessary to prove their claims. Most of them are faced with the problem how to pay the fees of their lawyers. They do not possess any "Mark" accounts in Germany which could be used for this purpose; nor are they in a position to spend Dollars after having been deprived of all their fortune in connection with their emigration under the Nazi Regime.

The German lawyers are not willing to wait for payment until the close of the proceedings, or to advance all expenses involved.

On the other hand the financial status of the present owners is much more favorable. They have been



- 2 -

O M G U S, Legal DivisionFebruary 17, 1949

holding the disputed property since many years and drawing the revenues. In many instances, even up to the present time, they are receiving a monthly allowance for their livelihood, or administrative fees from the controlled property. They, therefore, can easily retain a lawyer, whereas the claimants, due to lack of means, do not have this privilege.

To straighten out this inequality, we would like to suggest that the Offices for controlled Property (Aemter fuer Vermoegenskontrolle und Wiedergutmachung) be authorized to advance out of the money under their control the funds necessary for the payment of lawyers' fees.

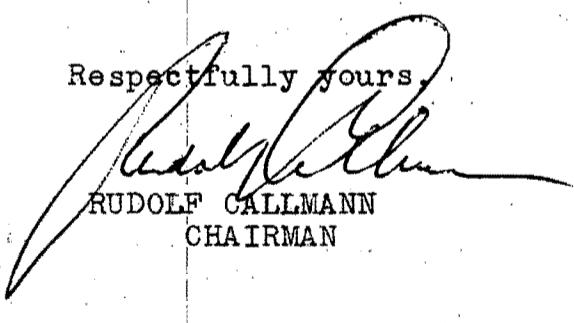
All efforts to obtain such approval failed so far.

Such negative attitude is bound to have a very detrimental influence on the prompt and successful prosecution of restitution claims and would be contrary to the purpose of Law #59, viz. "to affect to the largest extent possible the speedy restitution of identifiable property". It would not be in line either with the statement of General Lucius D. Clay: "...every effort will be made for the conscientious and impartial implementation to the end that Justice may be rendered under the law."

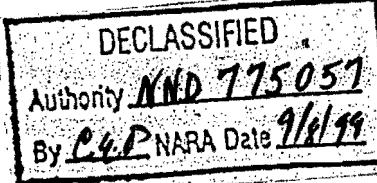
We would greatly appreciate your favorable consideration of this matter.

Looking forward to your early decision, we thank you in anticipation of your cooperation.

Respectfully yours,


  
RUDOLF CALLMANN  
CHAIRMAN


308342



# INSTITUTE OF JEWISH AFFAIRS

330 WEST 12nd STREET, NEW YORK, N. Y. • LOnaere 5-2600  
1834 BROADWAY, NEW YORK 23, N. Y. Circle 6-1900

*Restrict*

January 15, 1946

War Department, Civil Affairs Division  
Financial Section  
Pentagon Building  
Washington, D.C.

Dear Sirs:

Re: S 37392

Yesterday I received your message referring to cable No. S 37392 from US Forces European Theater Main to the War Department Civil Affairs Division. May I ask you to inform US Forces European Theater Main by cable that, through the instrumentality of the American Federation of Jews from Central Europe in New York, I immediately contacted persons having direct knowledge on the aryanzation of the following firms:

Simon Hirschland, Essen  
Mendelsohn and Co., Berlin  
Gebrueder Arnhold, Dresden and Berlin  
S. Bleichroeder and Co., Berlin  
S. Merzbach, Offenbach  
M. M. Warburg and Co., Hamburg  
N. V. Hugo Kauffmann and Co., Amsterdam  
I.C.A. Schneider, Schuhmanufaktur, Frankfurt a/M.  
Lippmann, Rosenthal Co., Holland.

The persons contacted will send sworn affidavits and copies of available documentation, as requested in the cable, directly to Mr. Dodge, Finance Division, Office of Military Government, attention Mr. S. S. Klepper.

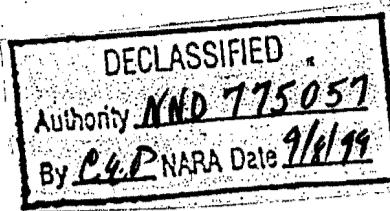
I shall try to ascertain whether persons connected with the other firms enumerated in the cable are living in the United States.

Sincerely yours,

*Jacob Robinson*  
Jacob Robinson  
Director

7415

308343



111-44

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)  
Finance Division  
APO 742

Dr Klein/hs

5 December 1946

**MEMORANDUM:**

**SUBJECT :** Reference to the Ascertainment of Records Concerning Jewish Property.

**TO :** Mr. E. J. Casseday, D/Chief, Property Control Branch.

For the ascertainment of records of former Jewish property there are two possibilities for location, either by the aid of

1. public registers according to the kind of property as defined under para I below, or
2. by means of official records, which were filed on the basis of discriminating legal measures by the Nazis against certain categories of persons as indicated under para II below.

**I. RECORDS ACCORDING TO THE TYPE OF PROPERTY.**

1. According to German Law all real estate and any right pertaining to real estate is entered in the Grundbuch (land register). All records in connection with real estate will be found at the respective Amtsgericht, Abt. Grundbucheinheit, in whose district the real estate is located. In addition to the Grundbuch and Grundakten, this agency keeps an alphabetical Personen Register containing the names of all owners of real estate, i.e. a cross index to the so-called Grundbuch. In connection with locating former Jewish owners of real estate it would only be necessary to check the Personen-Register, containing the names and addresses of all of them. According to the 2. Carrying-out decree regarding the law of changing family- and first name of 17.8.38 - RGBl 1, S.104 (2.VO z.Parchf.d.Ges. ueber die Aenderung von Familiennamen u. Vornamen) all Jewish persons had to adopt a Jewish first name and this new name had to be entered into all public registers. Therefore it would be easy to find out former Jewish owners of real estate in checking the Personen-Register.

2. The Trade Register (Handelregister), which is also kept at the Amtsgericht, Abt. Handelregister is the official record indicating all interests in connection with commercial enterprises. It contains 2 divisions:

- a. In division A individual business men, partnerships (Offene Handelsgesellschaften) and limited partnerships (Kommanditgesellschaften) are entered.
- b. Division B contains corporations (Aktiengesellschaften, Kommanditgesellschaften auf Aktien, Gesellschaften mit

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Authority NWD 775057  
By C4P NARA Date 9/9/99

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berechtigter Haftung) and mutual insurance organizations (Vereinigungvereine auf Gegenseitigkeit).

In both divisions all facts are contained concerning the date of beginning, firm-name, location, purpose and kind of the enterprise, branches, representatives, dissolution and liquidation; with regard to corporations the amount of the capital, the members of the officers (Verstand) and all other data where publication is required by Commercial Law Code.

In the Trade Register as well as in the Land Register Jewish interests will be found out very easily by checking the Personen-Register with regard to the adopted name.

3. At the former Reich Patent Office (Reichspatentamt) a Patent-Register was located containing all patent rights. There is also an alphabetical names register of all holders of such rights.

4. Similar to the Grundbuch (Land Register) there is a Ships-Register at the Integaricht of the respective home port where all ships, which are subject to registration, according to the legal regulation, have to be entered as well as all liens against ships. There exists likewise an alphabetical names register of ship owners.

#### II. SPECIAL RECORDS REGARDING PROPERTY OF PERSONS DECLARED AS ENEMIES OF THE STATE AND JEWISH PROPERTY.

On the basis of so-called legal measures and in order to centralize Jewish properties and to impose special charges on it, to transfer or to confiscate it, special official agencies were created under the control of the Reich Ministry of Finance, Division VIII/14, Ministerialrat Dr. Knodel and Generalbuero for general financial matters, GBW, Division Patzer with the function to seize, administer and utilize the respective property.

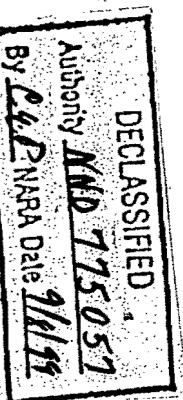
1. The local  Oberfinanzamtsleiter under the direction of the Finance Ministry had a special division, the so-called "Vermögensverwertungsstelle". All properties except securities which were confiscated in favor of the Reich according to

- a. Law concerning the confiscation of communist property of 26 May 1933 RGBl I S.293 - in connection with law concerning the confiscation of properties belonging to persons alien to the German nation and enemies of the German State of 14 July 1933 - RGBl I S.479)

Gesetz über die Konfiszierung kommunistischen Vermögens vom 26. Mai 1933 - RGBl I S.293 - in Verbindung mit dem Gesetz über die Konfiszierung volke- und staatsfeindlichen Vermögens vom 14.Juli 1933 - RGBl I S.479 -

- b. Law concerning the withdrawal of naturalizations and deprivation of German citizenship of 14 July 1933 - RGBl I S.480

Gesetz über den Widerruf von Einbürgerungen und die Abrennung der deutschen Staatsangehörigkeit vom 14.Juli 1933



- 9 -

KM 1 8.800.

- c. 22th decree regarding the National Citizenship Law of 23 Nov 1941 - KM 1 8.722 -

Erlte Verordnung zum Reichsbuergergesetz vom 25. November 1941 -  
KM 1 8.722 -

- d. 19th decree regarding the Nazi dual Citizenship Law of 1 July 43  
KM 1 8.372

Deutsche Verordnung zum Reichsbuergergesetz vom 1. Juli 1943 -  
KM 1 8.372

- e. Legal sentences of courts in which besides the penalty con-

fiscation of property had been pronounced.

Reichskreisratte Unterricht von Gerichten, in denen neben der Strafe zur Vergangenheitswirkung erkannt wurde,

were transferred to this office in order to utilize it for sales, public auction, etc.

The records of the Oberfinanzpräsident Berlin are now in the hands of a custodian designated by the Remandatura. A special report is attached as Indlosure A.

2. The Liquidating Office of the Ministry of Finance (Festvervaltung des Reichskommissariats) has almost complete files of all securities not subject to administration and utilization of the Oberfinanzpräsident which came into the hands of the Reich on the basis of the laws enumerated under 1a - e above. About 35,000 - 40,000 files containing names and addresses of the owners and amount of the securities will be an important record to find out the proper value of the property concerned and to distribute it to the rightful owner.

3. Those as enumerated here from Germany were already citizens of other nations at the time of the beginning of the war, their property records were kept with the office of the Reichskommissar für Ausländerangelegenheiten (Reiche Commissar for handling Enemy Property). The office of the Reichskommissar was located in the Reich Ministry of Justice in Berlin. Every Überlandesamtshaupt had files of such cases property within its district of jurisdiction.

On the basis of information of the Festvervaltung of the RFA all records of the Reichskommissar were transferred to Brandenburg/ Westfalen.

4. The proper finance offices (Finanzämter) have kept complete records about the Reichskommissar, the Judentaxeabrechnungen

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By C4P NARA Date 9/8/99

- 4 -

to the VO über den Einsatz des jüdischen Vermögens und 1. Durchf. V. o.  
overpaid income taxes, property taxes and special wage taxes (Sozialaus-  
gleichsentgelt).

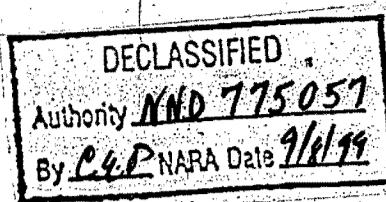
A number of volumes regarding the Judenverm. Abgabe are collected  
in the Rentverwaltung RVM in Berlin.

1 Incld.  
Report dtd 2 Dec 46

DR. RUTH KLEIN

Telephone Ext. 42993

308347



## OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)

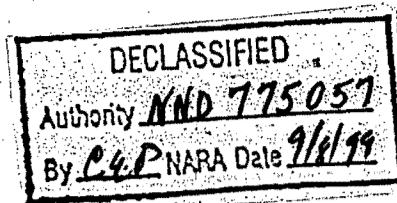
Finance Division  
Property Control Branch  
APO 742

9 May 1946

## MEMORANDUM:

SUBJECT : Jewish Properties in Germany  
TO : Colonel L. W. Jefferson  
FROM : M. K. Wise

1. The 10th decree (par. 5), issued on 4 July 1939, (RGBl. I 1097) pursuant to the Reichsbuergergesetz (National Citizenship Law), provided that all Jewish associations, organizations and cultural establishments be dissolved or incorporated in the newly created Reichsvereinigung der Juden in Deutschland (Union of Jews in Germany). In accordance with this decree about 1500 Jewish associations and establishments and about 1650 Jewish communities (religious unions) were dissolved and thus incorporated.
2. The property of all organizations in question was transferred to the Reichsvereinigung der Juden in Deutschland. This process was completed by the end of January 1943. After 1 February 1943 the Reichsvereinigung der Juden in Deutschland became the owner of the whole of public Jewish property.
3. Pursuant to a decree of the Reich Security Head Office (Gestapo), the property of the Reichsvereinigung der Juden in Deutschland was sequestrated on 10 June 1943 and transferred to the credit of the Reich. Movable and immovable properties of the Central Office of the Union were sequestrated and the Oberfinanzpraesident Berlin-Brandenburg took charge of the administration.
4. A transfer balance sheet which he prepared is now being examined at the Generalsteuerdirektion Berlin, Property Administration Office (Vermoegensverwaltungsstelle). The properties of the Union located elsewhere on German territory, e.g., in Bavaria, East-Prussia, etc, were taken over by the local Gestapo agencies.
5. The value of the properties on the books of the Vermoegensverwaltungsstelle comes to about RM 175,000,000, of which approximately RM 30,000,000 were invested in real estate, the remainder being in bank accounts and shares of stock. The greater part of the bank accounts and stocks were reinvested in national loans (Reichsanleihe).



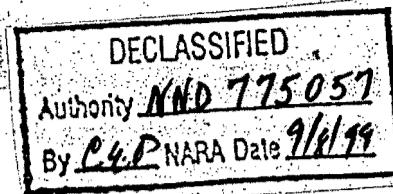
6. The properties within the Berlin District come within the scope of M.G. Law No. 52 and are now under property control.

7. Statistical particulars regarding the character and value of the sequestered properties are scattered. In accordance with a report of the Reich Ministry of Economic Affairs, dated 29 November 1938, the following information was given in connection with the declaration of Jewish property, pursuant to the 10th decree of 26 April 1938:

"An estimate of Jewish property values, for the territory of the old Reich and Austria, is as follows:

- (a) Investment in agricultural property and forestry RM 112 million
- (b) Real estate RM 2343 million
- (c) Operating capital (after deduction of operating expenses) RM 1195 million
- (d) Other property RM 4881 million
- (e) Total - RM 8531 million

8. The above figures relate to property values as of 27 April 1938. The Annexed Summary Report (in German) gives figures as to values estimated as of 31 December 1944, following the sequestration pursuant to the decree of 9 June 1943.



### Properties in Berlin

N a c h w e i s  
des Grundbesitzes der Reichsvereinigung  
der Juden in Deutschland, Bezirksstelle Berlin only

#### Russischer Sektor

- 1I Weissensee
  - aI Parkstrasse
  - bI Wittlicherstrasse
  - cI Lothringenstrasse/Lichtenbergerstrasse
  - dI Metzstrasse
- 2I Auguststr. 11/13
- 3I Niederschönhausen, Bismarkstr. 16/22, Rosenthaler Weg
- 4I Niederschönhausen, Fresestrasse
- 5I Blumenstr. 97
- 6I Chorinerstr. 26
- 7I Elsasserstr. 54
- 8I Elsasserstr. 85
- 9I Köpenick, Freiheit 8
- 10I Gipsstr. 12a
- 11I Grosse Hamburgerstr. 27
- 12I Friedrichshagen, Hahnmühle 16
- 13I Johannistr. 16
- 14I Kl. Auguststr. 10
- 15I Weissensee, Kronprinzenstr. 3
- 16I Köpenick, Mahlsdorferstr. 94
- 17I Oranienburgerstr. 28
- 18I Oranienburgerstr. 29/30
- 19I Oranienburgerstr. 31
- 20I Oranienburgerstr. 40/41
- 21I Schönhauser Allee 162

#### Französischer Sektor

- 1I Iranischestr. 3

#### Englischer Sektor

- 1I Joachimsthalerstr. 13
- 2I Königsallee 11a
- 3I Levetzowstr. 7/8
- 4I Lützowstr. 16
- 5I Lützowstr. 48
- 6I Lützowstr. 49
- 7I Schulstr. 7
- 8I Turmstr. 9

#### Amerikanischer Sektor

- 1I Marienfelde, Kirchstr. 63
- 2I Münchenerstr. 37
- 3I Thielschufer 10/16

308350

# Union of Jews in Germany

REPRODUCED AT THE NATIONAL ARCHIVES

Union of

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Authority NND 775057  
By C4P NARA Date 9/1/19

Report of Properties Pursuant to decree of 9 June 1943  
pursuant to decree of 9 June 1943  
sequestered by the Reich  
Aufstellung

des vom Reichssicherheitshauptamt durch besonderen Erlass vom 9. Juni 1943 zu Gunsten des Deutschen Reiches beschlagnahmten Vermögens der Zentrale der Reichsvereinigung der Juden in Deutschland.

Stichtag: 31. Dezember 1944. [as of]

## al Vermögen [Assets]

|     |   |                        |               |                  |
|-----|---|------------------------|---------------|------------------|
| I   | <u>Kassenbestand</u>                              | [Cash]                 | RM            | 46,60            |
| II  | <u>Postcheckguthaben</u>                          | [Postal ck accts]      | "             | 217,04           |
|     | Berlin 16 8696                                    |                        |               |                  |
| III | <u>Bankguthaben</u>                               | [Bank accts]           |               |                  |
| A   | Bankhaus b. Heinz, Tecklenburg & Co., Berlin W. 8 |                        |               |                  |
|     | Kto. ordinario                                    | RM                     | 365.552,--    |                  |
|     | Kto. Grundstückserlös                             | "                      | 1.953,--      | RM 367.505,--    |
|     | Festgeldkonten:                                   | [Fixed interest accts] |               |                  |
|     | Separato I  | RM                     | 3.750.000,--  |                  |
|     | II  | "                      | 2.250.000,--  |                  |
|     | III   | Llaaserl               | 67.361,--     | "6.067.361,--    |
|     | Wertpapierdepots:                                 | [Securities & bonds]   |               |                  |
| aI  | Inländ. Anleihen                                  | i/RM                   | 13.144.000,76 |                  |
| bI  | Inländ. Anleihen                                  | "                      | 120.418,40    |                  |
| cI  | Ausländ. Anleihen                                 | "                      | 1.739,37      |                  |
| dI  | Inländ. Aktien                                    | "                      | 34.731,15     |                  |
| eI  | Ausländ. Aktien                                   | "                      | 1.425,--      | "13.302.314,68   |
|     | Gesamtbestand IaI                                 |                        |               | RM 19.737.180,68 |
| B   | Reichskredit-Ges.A.G.                             |                        |               |                  |
|     | Berlin W. 8                                       |                        |               |                  |
|     | Kto. ordinario                                    | RM                     | 81.598,45     |                  |
|     | Festgeldkonten:                                   |                        |               |                  |
|     | Separato I  | RM                     | 1.500.000,--  |                  |
|     | II  | "                      | 3.900.000,--  |                  |
|     | III   | "                      | 1.500.000,--  |                  |
|     | IV  | "                      | 1.500.000,--  |                  |
|     | V   | "                      | 1.750.000,--  |                  |
|     | VI  | "                      | 1.250.000,--  | 11.4000.000,--   |
|     | Wertpapierdeposits:                               |                        |               |                  |
| aI  | Inländ. Anleihen                                  | i/RM                   | 47.037.914,96 |                  |
| bI  | Inländ. Anleihen                                  |                        |               |                  |
|     | i.frd. Anleihen                                   | "                      | 188.868,--    |                  |
| cI  | Ausländ. Anleihen                                 | "                      | 3.958,26      |                  |
| dI  | Inländ. Aktien                                    | "                      | 2.175,--      |                  |
| eI  | Ausländ. Aktien                                   | "                      | 806,02        | RM 47.233.722,24 |
|     | Gesamtbestand IbI                                 |                        |               | 58.715.320,69    |
|     | Uebertrag   | RM                     | 78.452.765,01 | "                |

308351

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Authority NND 775051  
By C4P NARA Date 9/6/99

(Cont.)

Uebertrag

RM 113.548.711,47

**IV Grundpfandrechte (Mortgages)**

|  |   |            |
|--|---|------------|
| Bestand an Hypotheken  | " | 245.966,51 |
| Va Forderungen aus Grundstuecksverkaeufen (Claims)<br>Lfd.Nr. 1 - 15                   | " | 187.843,30 |
| Vb Forderungen an eingegliederte und<br>aufgeloste Organisationen<br>Lfd.Nr. 901 - 948 | " | 456,16     |
| Vc Forderungen verschiedener Art<br>Lfd.Nr. 01 - 039                                   | " | 312.362,52 |
| Vd Ansprueche aus Erbschaften und Vermaechtnissen<br>Lfd.Nr. 501 - 567                 | " | 488.161,04 |
| Ve Forderungen aus Forstrechnungen   | " | 47,62      |
| Vf Forderungen aus Abt. Wanderung (Hilfsverein)  | " | 2.914,05   |

**Inventar**

|                   |             |                   |
|-------------------|-------------|-------------------|
| a) Bueromaschinen | RM 2.950,-- |                   |
| ./. Abschreibung  | " 295,--    | RM 2.655,--       |
| b) Bueromaterial  | " 147,55    | " 2.802,55        |
|                   |             | RM 114.789.265,22 |

**b) Schulden (Liabilities)**

|   |              |
|---|--------------|
| Pensionsansprueche (Pension claims)     | RM 59.675,-- |
| Aufwendungen fuer Grundstuecksverkaeufe | " - . -      |

**Rueckstellungen: (Disbursements)**

|   |               |
|---|---------------|
| a) Allg. Treuhandstelle fuer jued. Auswanderung                             | " 16.000,--   |
| b) Zentralstelle f. jued. Darlehnskassen                                    | " 75.404,17   |
| c) Palaeistina-Amt  | " 70.314,15   |
| d) angefallenes Vermoege eingegeiderter oder<br>aufgeloester Organisationen | " 56.000,--   |
|   | RM 277.393,32 |

**c) Grundvermoegen**

Grundvermoegen - abgegeben an die zustaendigen  
Oberfinanzpraesidenten.

**Zusammenstellung (Summary)**

|           |   |                   |   |
|-----------|---|-------------------|---|
| (Assets)  | a) Vermoege   | RM 114.789.265,22 |   |
| (Liabil.) | b) Schulden   | " 277.393,32      | (das im Reich be-   |
|           | c) Grundvermoegen   | - . -             | legene Grundver-  |
|           | (Properties<br>sequestered by the Reich -<br>value not given -) | RM 114.511.871,90 | moege ist von<br>den jeweiligen<br>Landesregierungen<br>erfasst.) |

DECLASSIFIED

Authority NND 775057  
By C4P NARA Date 9/8/99

Vol. II. No. 3

MARCH 1947

**JR INFORMATION**

ISSUED BY THE

ASSOCIATION OF JEWISH REFUGEES IN GREAT BRITAIN  
8, FAIRFAX MANSIONS, LONDON, N.W.3

Office and Consulting Hours: 10 a.m.—1 p.m., 3—6 p.m., Sunday 10 a.m.—1 p.m.

Telephone: MAlden Vale 9096

**ITION OFFICE**

the Protection of the Rights  
ws from Germany " of which  
Jewish Refugees in Great  
sh constituent member, will,  
i of the Control Office for  
tria, Norfolk House, London,

**ITION OFFICE**

gement and direction of  
a.D. D. Cohn.  
ice have accorded official  
above office and have given  
y will co-operate with it in  
y.

d that this step is not caused  
the legal position regarding  
t, the whole question is still  
ith the various authorities  
, however, that our members  
ted persons including their  
h whom the office will keep  
in whose activities the office  
croach in any way, will wel-  
e concentrating its activities  
nected with restitution.  
f the office, therefore, will

d inform refugees and their  
on all laws, ordinances,  
ncerning restitution in any  
r other countries, including  
res for the protection of  
further legislation such as  
w 52 of Military Government.  
ugees and their advisers in  
ion from German banks,  
uthorities which might be  
or substantiate their claims  
es are encountered.

plications for registration of  
many for the restitution of or  
property lost through " Inter-  
ad to be made, until recently,  
ce and now to the Zentralamt  
verwaltung, Seilerstr. 28,  
any, and which in future may  
igh the restitution office. In  
urvey of those claims which  
ht forward it is highly  
ake use of that facility.  
already been made to the  
Zentralamt, no further claim  
ne time being.

efugees who are not in a  
he services of a qualified legal  
ring their applications for  
it a later stage, in giving such  
be necessary when legisla-  
ters has been enacted.

be situated on the premises of  
ax Mansions, Fairfax Road,  
d will be open at the follow-  
ay, Tuesday, Thursday, from  
from 10.30 a.m. to 12.30 p.m.  
be made for forwarding an  
registration to the proper  
l other cases a basic charge  
able for every inquiry, and  
that amount should be sent  
inquiry. If in the discretion  
of the Restitution Office a  
special expense or extra-  
re office may be entitled to  
late higher charge.  
ffice cannot make themselves  
v for the correctness of any  
though, of course, they will  
sist refugees in the right way.

**NEW LIGHT ON RESTITUTION**

We have repeatedly pointed at the political and economic difficulties which stand in the way of solving the restitution problem. During the past few months, negotiations in this respect have been intensified, and although no settlement has been reached yet, at last the outlines are becoming visible as to the trend a future solution is likely to take.

Partners of the discussions have been the Military Government, the Occupation Authorities, either separate in the different zones or united in the Allied Control Council, the German Laenderregierungen, the large Jewish organisations (refugee organisations and others), and the representatives of the Jews in Germany.

The following questions may be singled out from the intricate mass of problems:

(1) Will it be possible to achieve a restitution law for the whole of Germany or will the different zones promulgate different laws? Up to the present time no decision has been taken. Should a uniform law not be achieved it is to be hoped that at least joint agreement will be reached on the basic principles of Zonal laws.

(2) Will the law deal with compensation for all losses or will in the initial stage only the refund of existing identifiable property be considered and the vast range of compensation for money losses be reserved to a separate ruling at a later date? There seem to be indications which point to such a course because Germany's economic position is far from being so stabilised that complicated financial questions can be even touched upon at the present juncture.

(3) A much contested subject is that of jurisdiction. Many cases will require the decision of a Court or Tribunal, and here the question arises whether German Courts or mixed Courts with Allied judges shall be competent. Our endeavours are focused on the elimination of German juries. However, we must realise that for lack of Allied manpower we shall not find full recognition of this demand, but we hope that at least the court of first instance will include a representative of the victims and that the court of appeal is to be constituted in such a manner that German influence is excluded.

(4) An equally weighty problem is that of the property of Jewish organisations and communities as well as the so-called heirless property which belonged to families who have been exterminated. Never must this

property fall into the hands of the German state as it would happen if German law were applied. Most of the newly established Jewish communities in Germany are of a dwarfish shape, and therefore they cannot be considered as legal successors to the previous communities although, their interests have to be taken primarily into account. Here, a Jewish Corporation of an international juridical nature will have to be set up consisting of a representation of the former Jews from Germany now living outside that country, of a representation of the Jews in Germany and the important Jewish international bodies. This Corporation shall act as trustee for communal and unclaimed property and use the proceeds for resettlement and rehabilitation of the victims.

(5) To strengthen the fund of this Corporation it is under discussion to curtail the right of succession to a certain extent.

(6) The last and most subtle problem is that of transfer. Although we all know that restitution will become only then genuine when its practical inferences have been made accessible to the claimants outside Germany, we must be under no illusion that for the present and probably for the immediate future this side of the problem will remain unsolved. As long as Germany's economy is not put on a solid basis, as long as Germany's currency is not adjusted, this question will probably have to be shelved in spite of its importance.

This survey of pending negotiations reveals that the matter of restitution has neither been neglected nor forgotten. The efforts for a satisfactory settlement have involved and are involving painstaking work. We trust that the work will find its reward in the forthcoming Peace Treaty with Germany by recognition of Germany's responsibility for restitution towards Jewish victims.

In all those negotiations, the Association of Jewish Refugees and even more the Council for the Protection of the Rights and Interests of Jews from Germany have taken an active part. The negotiations are going on in London and Washington as well as in Germany, where the chairman of the AJR, Mr. A. Schoyer, is acting as representative of the aforementioned Council.

The announcement regarding the establishment of a Restitution Office officially recognised by the Control Office for Germany and Austria is evidence that the Council has been assigned a prominent place in these negotiations.

308353

RG 260  
Hesse Prop. Div. Rec.

To: LAND CIVILIAN AGENCY HEAD FOR HESSE  
RE: PROPERTY CONTROL PROCEDURE TO BE APPLIED TO FIRMS  
REPLY: LAND CIVILIAN AGENCY HEAD FOR HESSE  
LCAH to PC (Gen) file  
Box 1257 (5)

LAND CIVILIAN AGENCY HEAD FOR HESSE

Wiesbaden 21 Nov. 1947.  
II/6 Dr. HO/k1.-

SUBJECT: Property Control Procedure to be applied to Firms.

TO: LAND CIVILIAN AGENCY FOR PROPERTY CONTROL AND RESTITUTION,  
FOR BAVARIA,  
München, 16, Prinzregentenplatz  
ATTN: Dr. BERGMANN.

Reference is made to the discussion held on 6. Nov. 1947 between Dr. Stramitzer and Dr. Hoffmann of this office and Dr. Bergmann of your office concerning the rules set forth by this office as to which extent Property Control procedure under MG Law No 52 should be applied to firms.

The views expressed by this office hereunder are based on the exposé submitted by Dr. BERGMANN.

1) ad I Establishment of Property Control:

The procedure applied by this office corresponds to that set forth by your office under para I of the aforementioned exposé.

2.) ad II :

The procedure applied in Hesse differs from the suggestions contained in your draft insofar as this office considers 50% - not 25% - of the joint capital of a company as a criterion for establishment of or release from Property Control.

- a) Partnerships (OHG): Where one or more partners in a partnership are subject to MG Law 52 Property Control will be applied to the company in any case.
- b) Kommanditgesellschaften: Property Control will be applied in any case where one of the following prerequisites is existing:
- aa) One or more of the personally and unlimitedly liable partners are subject to Property Control.
  - bb) 50% or more of the company's joint capital is subject to Property Control.
  - cc) A minority share is subject to Property Control and such share in consideration of the prevailing circumstances is entitling the holder to exercise practically a controlling influence on the company.
- c) Joint Stock Companies, Limited Liability Companies and Mining Corporations: Property Control will be applied if one of the following prerequisites is existing:
- aa) If 50% or more of the joint capital of the corporation are subject to MG Law No 52.
  - bb) If a minority share which is subject to MG Law No.52, especially where the corporation capital is widely scattered, is in a position to exercise practically a controlling influence on the corporation. Especially in those cases where in the ordinary meetings of the shareholders of a company usually only part of the corporation capital is represented such minority share will be in a position to exercise a controlling influence

308334

- a) Cooperative Societies: Property Control will be established in those cases where 50% or more of the shareholders having voting right are subject to Property Control.
- e) Sleeping Partners: A sleeping partner subject to MG Law 52 cannot cause the company to be taken into Property Control custody.
- f) Social Insurance Institutions of blocked Enterprises:
- aa) Where those social insurance institutions of blocked enterprises constitute legally independent entities, e.g. a limited liability company, an insurance company operated on a mutual interest basis or a foundation, the aforementioned principles to be applied to enterprises on account of the implication of one of their partners or shareholders will also be applicable to those institutions with respect to Property Control.
  - bb) Where those social insurance institutions do not constitute legally independent units and where their property is administered as part of the total property of the blocked enterprise, those institutions are also subject to Property Control custody.

Where the aforementioned prerequisites warranting blocking control are not existing, respective properties may be released from Property Control custody. The principles set forth above will be applicable to both Property Control and Blocking Control.

3) Responsibility of Executive Bodies of a Company:

In principle, this office concurs in the views set forth in the aforementioned exposé. Since, however, in Hesse no Custodian Law has yet been issued it is not yet possible to submit final recommendations concerning the individual questions involved.

4) Appointment of Custodians for Companies:

It is not possible either to state the final views of this office concerning that problem but at a time when a Custodian Law will have been issued for Hesse. As a general rule, the principles applied within your area of jurisdiction also correspond to those applied by this office.

It is requested to inform this office of your views differing from the aforementioned principles concerning release from Property Control custody, if any.

FOR THE LAND CIVILIAN AGENCY HEAD:

/S/  
t/ DR. HOFFMANN

308355

Re 260 - on one file  
Box 1257 Hesse One DIV file  
LCA 14 to PCC (Gen'l) (6)  
file 23 Aug 47

SUBJECT: Bagatelle VG-Properties.

THRU: Property Control Office  
Hanau am Main

TO: Office of Military Government for Hesse  
Property Control Division

1. Attached is a list (in triplicate) concerning 100 bagatelle VG-properties which were taken under control by this office during earlier periods.

2. These small properties consist only of partly arable land and partly meadows ranging in value from as little as RM 15.-- to RM 1.000.-- for one individual case. All the land and meadows are leased to various people. The yearly rent is in some instances less than RM 1.-- and in no case more than RM 20.--. Blocking notice was given to the respective Grundbuchämtern so that all properties are thereby already fully protected. Claimants are known to only 5 cases while the other 95 are merely under control for reason of providence. It is quite possible that no claimants on this 95 properties will come forward so that control is hardly justified and paper, expenses and work should be spared.

3. This office would therefore appreciate an early reply as to what can be done to clear this particular situation.

Temporary Chief  
CAH Sk/Lk Hanau

*Pfadt*  
(ADAM)

Incl.: List in triplicate

1st Ind

II/9 ws.

LAND CIVILIAN AGENCY HEAD FOR HESSE

Wiesbaden 9 Sep 47

TO : OFFICE OF MILITARY GOVERNMENT FOR HESSE  
Property Control Division

Forwarded for your decision.

FOR THE LAND CIVILIAN AGENCY HEAD:

*v.d.Pfordten*  
v.d.Pfordten

308356

R6260  
Hesse-Prop. Division Recs.  
Box 1257  
"LCAH to PC (General)"

File No 9/55/48

TO: Ministry of Finance  
Section B.V.6  
Wiesbaden, Dietenmühle

SUBJECT: Responsibility for Properties subject to MG Law 52 at the Time of their Release from Blocking Control or Property Control effected under the Provisions of Land Central Bank Special Authorization No 4 and MGR 17-240 respectively.

RE: Our Letter dtd 3 Dec 1947, File No 723/47.

1. Item 7 under the agenda prepared for the joint discussion held on 8 Jan 1948 at the Landeszentralbank concerning institution of a uniform procedure respecting releases from Blocking Control and Property Control under the provisions of MG Law 52 was based on a decision issued by Military Government on 22 Oct 1947 which had been forwarded by your letter dated 15 Nov 1947. That decision provides for properties which are subject to MG Law 52 remaining blocked notwithstanding the fact that they have been released from Property Control. That decision provides further that a release of properties from Property Control custody may not be considered in itself a release from the provisions under MG Law 52. Moreover, the aforementioned letter specifically points out that properties such as owned by wives and children after having been released from Property Control custody should immediately be taken into Blocking Control in those cases where such properties are subject to MG Law 52.

2. From that decision it was apparently to be taken that Landeszentralbank being the competent agency for Blocking Control was responsible to check on the releases from Property Control effected by the LCAH office. In view of the fact that some CAH offices are carrying through releases without informing Landeszentralbank to that effect whereas other CAH offices are informing Landeszentralbank of the releases effected, the meeting disregarding objections of a fundamental nature raised by Dr. Friedemann of the LCAH office during that discussion agreed upon the procedure that in future all CAH offices should report all releases from Property Control to the competent Landeszentralbank either for a final release under the provisions of Land Central Bank Special Authorization No 4 issued pursuant to MG Law 52 in those cases where blocking reasons were no longer existing, or for transferring those properties into Blocking Control where blocking reasons still existent warranted that procedure.

3. On 13 Jan 1948 in reply to an inquiry raised, Military Government (Mr. Weber) by order of Mr. Spigler furnished this office with the information, inconsistent with the opinion expressed above, to the effect that Property Control authorities were fully responsible for any properties which are subject to MG Law 52 and which had been taken into Property Control custody, and that for that reason those authorities themselves were also competent and responsible for the release of those properties from Property Control custody and also from the provisions under MG Law 52. Since para 1(b) under Land Central Bank Special Authorization No 4 provides for a release from Blocking Control of any properties at the time they are being transferred into Property Control, a deblocking of properties which had been taken by Property Control authorities into custody and subsequently been released by them by Landeszentralbank was neither essential nor possible.

308357

~~It was agreed that merely those properties which regardless of the~~  
~~fact that the blocking reason was still existing were intended to be re-~~  
~~leased from Property Control custody should be reported to the compe-~~  
~~tent Landeszentrabank for the purpose of transferring them into Block-~~  
~~ing Control and of having financial institutions block the respective~~  
~~accounts.~~

4. Contradictory to the conclusion which was to be taken from Military Government letter dtd. 22 Oct 1947, the aforementioned decision results in Landeszentrabank being no longer responsible for de-blocking of any properties released from Property Control custody and in its request to be informed of any releases effected from Property Control being no longer warranted. According to that decision CAH offices are no longer required to inform Landeszentrabank of any releases but in those cases where respective properties continue to be subject to MG Law 52 and, thus, to Blocking Control.

5. That regulation basically and sufficiently provides for the procedure requested by Military Government to be applied on any normal cases. However, those regulations will not prevent altogether, in future, those difficulties which may arise in connection with releases of properties owned by politically clear wives and minor children from Property Control and which have induced Military Government to issue the aforementioned decision on 22 Oct 1947. That view may be taken from the fact that those difficulties have not arisen from deficiencies of the procedure applied but are due to the provisions contained in MG Law 52 having been interpreted in a different way by Property Control Section and Blocking Control Section and, thus, due to their not having been previously coordinated on Land level. (MGR 16-108.1)

6. E.g. Landeszentrabank branches are continuously furnishing this office with information to the effect that CAH offices continue to issue instructions to financial institutions for having properties owned by wives and minor children released. Where those properties have been subject to Blocking Control due to the political implication of the husband or father under Blocking Control Regulations, financial institutions are requesting for advise whether they should block those accounts in accordance with para 4 under "Instruction No 1 to all Financial Institutions" or whether they should comply with the instructions issued by CAH offices which had released those properties from Property Control custody without any restrictions. Such differentiated treatment does not only result in an uneasiness among the persons concerned but also in establishing a legally uncertain status as to the responsibility of financial institutions in their capacity as "curators" as that term is used in Art III under MG Law 52.

In order to establish a uniform procedure to be applied on cases of the aforementioned nature, the LCAH office has promised not to release any longer properties of politically clear wives and minor children from Property Control custody in future.

7. However, it will not be possible to prevent in future altogether any difficulties which may arise from the above or any other reasons unless it proves possible to coordinate any problems which concern both authorities competent for the implementation of MG Law 52 concerning blocking of properties (Blocking Control and Property Control) prior to a basic ordinance being issued in that respect. Since the verbal information offered by Military Government which is mentioned in para 3 above is inconsistent with the decision issued on 22 Oct 1947 and, thus, the principles on which the discussion held on 8 Jan 1948 had been based have been subsequently changed, we feel obliged to invite your attention to the present status. At the same time this is to inform you of the conclusions which our office is obliged to derive from the changed legal opinion which will form the basis for the procedure to be applied uniformly, in future. Details of that procedure will have still to be coordinated with the LCAH office and will, in principle, be again in line with the instructions formerly issued by

MG (ref to Letter...) S. Müller, Landeszentrabank von kes sen  
308356  
308356

Central Control and  
Civilian Agency G 1  
Giessen, Südanlage 5, I

DECLASSIFIED

2 Mar 1949 / 260

REPRODUCED AT THE NATIONAL ARCHIVES

SUBJECT: Properties under Category "A".

Authority NND 775057

NARA Date 9/1/99

TO : Office of Military Government for Hesse,  
Property Division  
Property Control Branch

Wiesbaden, -Landeshaus-

Thru : Land Civilian Agency Head for Land Hesse  
Wiesbaden, Biebricher Allee 142

1. This office took over the jurisdiction over the areas formerly administered by CAH's for IX Büdingen, Alsfeld, Wetzlar and Friedberg on 1 January 1949. An examination of the files of the dissolved Civilian Agencies disclosed that a number of properties classified in category "A" are in fact former Jewish properties which should have been classified in category "G". In all cases the claimants (or former owners) are residents of a member-nation of the United Nations.

2. In a number of cases former Jewish properties, falsely classified in category "A", have been released from Property Control in accordance with the "Decentral Program". In other cases, decentral measures have been instituted.

3. Legally, these properties are either the property of German nationals who have purchased them under duress from the former Jewish owners, or have been automatically confiscated pursuant to the "11th Regulation under the Reich Citizen Law - ("elfte Durchführungsverordnung zum Reichsbürgergesetz"), and have become the legal property of the defunct German Reich.

4. It appears that in a number of cases these properties were classified in category "A" because the former owners were still registered as such in the Grundbuch (Real Estate Register). The failure to change the entry in the Grundbuch does not, however, affect the legality of the ownership of the German Reich. Pursuant to valid law this failure to change the registration constitutes merely an omission.

5. In view of the fact that custodians had been instructed to institute decentral proceedings pursuant to the program reserved for "A"-properties, the former owners have been led to refrain from filing claims for their properties under MGL No. 59, which would seem to us to be the only device by which they could legally regain rights of ownership. As the dead-line for the filing of claims with the Central Filing Agency was passed on 31 December 1948, these former owners would have lost their rights under MGL No. 59 due to faulty handling of their properties by the Civilian Agencies involved. We believe, therefore, that these former owners should be accorded some special relief enabling them to file their claims despite the said dead-line. We respectfully request that this matter be studied and to inform us as to what course of action should be recommended to the former owners involved. Attached please find a list of properties affected by the above situation.

Q6.260  
Hessa - Prop. Div. Recs.  
Box 1257  
LCAH to PC (General)

(Westermann)  
CAH

308359

Report of LCAH on the Actions in the Field of Property  
Control + Restoration in 1948

REPRODUCED AT THE NATIONAL ARCHIVES  
BY THE GOVERNMENT OF CANADA

DECLASSIFIED

Authority NND 775057

C4P NARA Date 9/1/99

REPRODUCED AT THE NATIONAL ARCHIVES  
BY THE GOVERNMENT OF CANADA Nos 2 & 3 d1 By C4P NARA Date 9/1/99  
the procedure applied by this enterprise is already theretofore, provided,  
however, that the claim states a cause of action and that the resti-  
tutee is not misusing application of the provisions contained in MG  
Law 59.

e) Employment of Owners of G Properties in Leading Positions.

In November 1948 this office has reviewed again the question concerning cooperation of the aryanizer in the enterprise concerned. That review was induced by a contemplated general provision prohibiting the aryanizer acting in the enterprise.

In its statement, dtd 13 Dec 1948, this office has explained in detail its views taken on this subject.

about There is no doubt the question that general removal of those persons from their positions will result in severe damages both to the individual enterprise concerned and to German economy as a whole. It would prove impossible to find several thousands of qualified persons who are experts in the respective lines of business and are disposing of connections with suppliers and customers. This office considers preservation and if possible increase in value, of the properties under custody its most important tasks. By transfer of the responsibility to a neutral and carefully selected custodian it should be sufficiently guaranteed that the cooperation of the aryanizer does not result in any harm being done to the property. The procedure suggested by this office to have special licences issued by the LCAH (where large properties are involved, if necessary, by the IPCC) necessitates a thorough examination of the merits of each individual case and submission of reasons in writing for the appropriateness of such employment by the custodian. Decision on that suggestion is pending, too.

f) Payment of Rent for G Properties.

Collection of rents for occupation of G properties is meeting, in many instances, considerable resistance on the part of the present owners. The letter issued by Military Government on 7 Nov 1947 clearly implies liability of present owners to pay rent. Recalcitrant owners will be reported to Military Government. Due to the fact that further processing of cases of that nature is the responsibility of the Field Officers, this office is not informed of the further prosecution of the individual cases. As far as this office knows, recalcitrant debtors have not yet been sentenced in the Land Hesse in any instance. The fact that those persons have not been punished as was contemplated, has severely damaged the reputation of Property Control in the Land Hesse, and has induced many other parties concerned to discontinue their former rent payments.

# Memo on Property Control + Restitution in Wesse

Dec 20, 1948

REPRODUCED AT THE NATIONAL ARCHIVES

DECLASSIFIED

Authority NND 775051

By C4P NARA Date 9/8/99

## I. Petitions

Up to now received at this office from  
Central Filing Agency Bad Nauheim

2 015

Petitions which out of the above number have been  
returned to Bad Nauheim or referred to Stuttgart

2

Thus, passed on to Restitution Agencies

2 013

Minus Waivers (Art 11, para 3) and  
Reinstatement of Trade Names (Art 86)

2

2 011

Out of that number the following cases have been  
completed by Restitution Agencies:

by means of 1. Dismissal

(Art 62, para 2) 179 1/2

2. Granting the petitions  
(Art 62, para 1) 23

3. Amicable Settlements  
(Art 62, para 3) 11

4. Reference to Restitution  
Chambers  
(Art 63) 48 1/2

5. Otherwise (e.g. by  
withdrawal) . 30 292

Still under process

1 719

Out of the 1 719 cases still pending a number of  
have been partly completed;

24

Appeals (Art 64) up to now filed

29

A number of 15 amicable settlements reached outside  
formal restitution proceedings are to be added to  
the total of 11 amicable settlements shown above.

Judging from the material available the number of  
petitions to be anticipated has up to now been esti-  
mated to total 15000 to 18000 cases. According to  
information received from a member of the board of  
directors of JRSO that estimate is presumably too  
low, and a number of 20000 to 30000 cases must be  
anticipated. Provided that the period of limitation  
for filing claims expiring on 31 Dec 1948 should  
not be extended, the precise number of restitution  
cases will be known at the beginning of next year.

## II. Reports and Informations

Up to now received at this office

3 529.

308361

B/L OFFICE OF MILITARY GOVERNMENT FOR HESSE 11-10-47, subj. Property Values.

1st Ind

TO: OFFICE OF MILITARY GOVERNMENT FOR HESSE  
Property Control Division

This office is of the opinion that complaints of former owners on too low values shown on PC/2s derive from following facts:

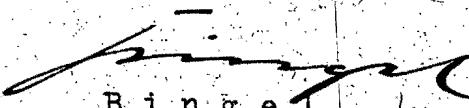
1. Where G-Properties had been taken into custody by Military Government Officers the majority of values of those properties had actually been estimated only without being based on a balance sheet in case of operating properties, or on the standard value in case of other income producing properties. Values of properties which had been taken into control by CAHs and which had been assigned a Kreis No are based either on the balance sheet or on the standard value.

Some of those properties taken into Control by PCOs have been reinvestigated by CAHs, and their correct values have been reported to this office by PC/3s. It is opinion of this office that the prepossessors should also be informed of those amended values.

2. It is assumed that in some cases Jewish prepossessors are figuring out much higher values for their properties since they are not acquainted with the term of the taxation standard value, and they also include into their claims the utilization during the last years. However, values shown on PC/2s merely constitute the standard value (in cases mentioned above the estimates value) so that in some cases values calculated by the prepossessors and those shown on PC/2s will differ.

3. CAHs will be instructed to reconcile values of G-properties in accordance with directives issued by your office. In all those cases one copy of the PC/3 indicating such revaluation will be submitted to your office.

FOR THE LAND CIVILIAN AGENCY HEAD

  
Bingel

13 NOV 1947

REF ID: A6111  
AUDITED AND 775057  
DECLASSIFIED

REPRODUCED AT THE NATIONAL ARCHIVES

308362

DECLASSIFIED

Authority NND 775057

By ANT NARA Date 7/4/49

Property Div. RG 260, Box 9

360/44/20/01-3

"Law 59" File

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December 13, 1949

QUESTION NO. 45:

Under the Restitution Program, is any plan in force to alleviate hardship where Jewish property was bought in good faith, particularly in the case of small farmers and businessmen?

COMMENT:

One of the basic principles characterizing the Restitution Law and expressed in the first article of the Law, states that "property shall be restored to its former owner or to his successor in interest in accordance with the provisions of this Law even though the interests of other persons who had no knowledge of the wrongful taking must be subordinated. Provisions of law for the protection of purchasers in good faith, which would defeat restitution, shall be disregarded except where this Law provides otherwise."

There are, however, provisions contained in the Law for the mitigation of responsibility of persons who are either innocent, or whose acquisition of the property is not attributable to an aggravated or malicious confiscation. For example, a holder or former holder of confiscated property may be excused from liability if he is unable to return the property, or if it has deteriorated, providing he can demonstrate that he has exercised due diligence in his care of the property, and if he is not chargeable with knowledge of the confiscation. Moreover, he may have an accounting for certain funds which he has expended or for a portion of the profits, and may also deduct payment for taxes and other necessary expenses incurred in preserving the property.

The Restitution Law further provides that certain types of property will not be subject to restitution, such as tangible personal property which the present owner or his predecessor in interest acquired in the course of an ordinary and usual business transaction in an establishment normally dealing in that type of property. This provision does not include religious objects or property which has been acquired from private ownership, if it is of unusual artistic, scientific or sentimental personal value, or was acquired at an auction or private sale in an establishment engaged considerably in disposing of confiscated property. Money is subject to restitution only if the person acquiring it knew or should have known at the time and under the circumstances that it had been obtained by way of confiscation.

Under German law in force during the Nazi Regime, all Jewish persons were required to adopt a first name which would readily identify such persons as Jews. Consequently, the sale of any real property

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Authority NND 775057

By ANI NARA Date 7/14/79

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*Belt  
Borough  
Land  
Properties*

owned by them would reflect, in the Land Title Register, the identity of the Jewish owner at a glance, and would put the next purchaser on notice. Consequently, many purchasers of Jewish real estate, by an ordinary search of title, should have been in a position to know that the seller was Jewish, and under then-prevailing discriminatory policy and legislation concerning Jews, may be presumed to have known the source of the property.

The Restitution Law presumes that any transfer or relinquishment of property made by a person who belonged to the persecuted classes now recognized was a transfer under duress. The Law does provide, however, that such presumption may be rebutted by showing that the transferor was paid a fair purchase price (that is, the amount of money which a willing buyer would pay and a willing seller would take, taking into consideration such factors as good will etc.), and providing that the seller had a free right of disposal of the proceeds, and if the transaction was such that would have taken place even in the absence of National Socialism.

*?  
Law 59*

There is no plan in force which is designed particularly to alleviate the situation of small farmers and businessmen who may be affected by the Law. The provisions above referred to are provisions from the Restitution Law, which is presently in course of interpretation and decision by the German courts. Final decision or application of the principles outlined here must still be made by these courts and by the Special Court of Appeals for Restitution, an American-staffed final appeals body under Law 59.

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REF ID: A67947  
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By ANT NARA Date 7/14/99

Law 59

Form HICOG-8  
(15 Sept 49)

OFFICE OF THE U.S. HIGH COMMISSIONER FOR GERMANY

OFFICE MEMORANDUM

To: PD - Mr. Miller

Date December 1, 1949

From: IRSE - Mr. Loewenthal *Wf.*

Subject: Conditions Impeding Restitution Progress

Reference is made to our recent conversations during which rumors which may adversely affect internal restitution progress in the US Zone were discussed.

During the past several weeks we have gathered information confirming disturbing reports which have been received by this office for some time. In substance, the situation may be described as follows:

Throughout the US Zone, officials administering MG Law No. 59 and other persons connected with the program have noted a marked tendency on the part of restitutors to delay final settlements of restitution cases. These tendencies are particularly reflected by the unwillingness on the part of restitutors to conclude amicable settlements, a condition which has been found to prevail to such an extent that restitutors have revoked amicable settlements already concluded before restitution agencies or restitution chambers shortly before the date set for the recording thereof.

The attitude of restitutors is mainly due to wide-spread rumors to the effect that US authorities may modify provisions of MG Law No. 59 in favor of restitutors or that such modifications may result from the issuance by the Bonn government of a uniform restitution law for Western Germany, which will be framed along the lines of restitution laws in effect in the French and British zones of occupation. In either case the belief is that certain provisions of MG Law No. 59, for example Article 30 "Strict Liability", which are deemed particularly severe as compared to provisions of restitution laws existing in the other zones, will be amended or even eliminated.

Expectations that MG Law No. 59 may be abandoned in favor of uniform restitution legislation for Western Germany gained considerable momentum after 22 delegates of the Lower House submitted a motion for enactment of such uniform legislation by the Bonn government (TAB A). It is understood that this motion was given wide publicity by the German press and radio.

Following are excerpts from reports made by leading restitution officials on the situation:

"... As previously reported, information obtained from the Agency Heads is to the effect that delaying tactics are being employed by restitutors who openly state that they believe that if the restitution program is prolonged the occupation authorities will lose interest and such lack of interest will definitely be to their advan-

Anhde 30 } "strict liability"  
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By ANT NARA Date 7/14/99

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tage. These tactics consist of waiting until the last possible moment before answering the notice served on them by the agencies pursuant to Article 61, and in requesting postponement of scheduled hearings. The Agency Heads are of the opinion that although such action cannot be construed as a breach of the law it does indicate an unwillingness on the part of the restitutors to come to terms and therefore is causing considerable delay." (Excerpt of a letter from Mr. Dickerson, Land Supervisor, Bavaria, to IRSB, dated November 9, 1949).

"... Many restitutors still anticipate that the law may be modified in a sense more favorable to them. They have been strengthened in their belief by the fact that in some points the restitution law for the British Zone is more favorable to the restitutors. Above all they hope for a future federal law. They assume that such federal law will be modelled in conformity with the most lenient of the existing laws, namely the law in the French Zone." (Excerpt of a letter from Dr. Kuester, Head of Department VI of the Ministry of Justice for Wurttemberg-Baden, to IRSB, dated November 11, 1949).

"... The restitutors are often of the opinion that in the long run there cannot be in force within the federal territory of Western Germany three different restitution laws, with an additional law in the Western Sectors of Berlin, but that the Federal Government will have to issue a uniform restitution law which at the same time will lessen the severity of the US Military Government Law No. 59. They think specifically of the strict liability imposed by Article 30 of the law which excludes the possibility of a transaction in good faith on the part of the restitutor, and that the efforts in this respect, which are especially evident in the French Zone, will be successful." (Excerpt of a letter from Dr. Malende, in charge of restitution at the Branch Office Karlsruhe of the Ministry of Justice for Wurttemberg-Baden, to IRSB, dated November 8, 1949).

"... The following points are considered to adversely affect the expeditious execution of MG Law No. 59 and thereby restitution in general:

5) There are rumors and notices in the press regarding a change of existing restitution legislation through coordination (with restitution legislation in other zones). Restitutors hope for a similar development as that experienced in the field of denazification. In this connection certain modifications of the substantive provisions of the law are being anticipated by restitutors." (Translated excerpt of a letter from Dr. Endres, Vice-President, Bavarian Land Central Office for Restitution, to IRSB, dated November 15, 1949).

"... This office has received in recent weeks many complaints made by restitutees or their authorized agents to the effect that numerous restitutors are endeavoring to delay restitution proceedings, hoping that the provisions of the restitution law will be modified in a way favoring their interests." (Excerpt of a letter from Dr. Weissstein, Deputy Chief, Land Central Office for Property Control and Restitution, Hesse, to IRSB, dated November 9, 1949).

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"... It has been noted in Regensburg that in numerous cases conditional amicable settlements have been revoked because the persons concerned allegedly had learned that an anticipated modification of MG Law No. 59 would substantially improve their position." (Statement of Landgerichtsrat Endres of the Landgericht Regensburg (Restitution Chamber), made at the meeting in Munich on November 14, 1949).

"... Landgerichtspräsident Lobmuller of the Landgericht Wuerzburg (Restitution Chamber) is of the opinion that amicable settlements are frustrated because the restitutors hope for a modification in their favor and do not endeavor to settle on an amicable basis." (Excerpt of the minutes of the meeting in Munich on November 14, 1949).

"... Landgerichtsdirektor Ackermann of the Landgericht Munich I (Restitution Chamber) declares that for various reasons he personally was under the impression that people now count on a modification in favor of the restitutors. Also in the press certain publications had been issued." (Excerpt of the minutes of the meeting in Munich on November 14, 1949).

The aforementioned conditions and the fact that recently an association for the protection of the interests of restitutors (TAB B) has been formed, represent, in the opinion of this office, the first conclusive evidence of the presence of resistance against the internal restitution program conducted under MG Law No. 59.

It is felt that the ultimate success or failure of internal restitution will largely depend upon the willingness of the parties to settle amicably. Therefore, conditions such as those described above are viewed by this office with considerable concern particularly in connection with the speedy completion of the program.

Although present statistics do not show any appreciable reduction in the disposition of cases made by restitution authorities, a downward trend in such dispositions must be expected unless existing rumors are counteracted by a firm statement to the contrary. To that end, it is recommended that a firm statement of policy clearly indicating the attitude of HICOG with respect to MG Law No. 59 be issued with the least possible delay and be given wide publicity.

Telephone BAD NAUHEIM 2041  
Ext. 174

IRSB: W.M.Loewenthal: kj

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All Authority NND775057  
By T.J. NARA Date 7/16/99C O P YLEGAL OPINION

SUBJECT: Effect on Claimant of Failure to Report under Article 73  
Military Government Law No. 59

2 PD LD 1 Mar 1. Item 1 of the carrier sheet dated 49 24 November 1948 asks the opinion of Legal Division regarding the rights of a potential claimant under MG Law No. 59 who has been prevented from filing his claim in due time as a result of the negligence or fraud on the part of the restitutor in failing to file a report as required by Article 73 of the Law.

2. Par. 1 of Article 56, MG Law No. 59, requires that a petition for restitution be submitted to the Central Filing Agency on or before 31 December 1948. The law gives the time within which the petition must be filed and it is thus a Statute of creation, not a statute of limitation. (See 34 Am. Jur., Limitation of Actions, Par. 7). The right of petition created by the law is not merely unenforceable after 31 December 1948 but ceases to exist in the petitioner (see Article 11, MG Law No. 59). Thus a potential claimant who has been prevented from entering a timely claim no longer has the right to petition for restitution.

3. Article 67 of the Restitution Law (MG Law No. 59) states that (subject to certain modifications not applicable here) the procedure to be followed in actions under that law shall be governed by the rules governing procedure in the field of German non-contentious litigation (Freiwillige Gerichtsbarkeit). In our opinion this Article is only applicable to the proceedings in the Restitution Chamber and, consequently, the procedure mentioned is not available to a petitioner under the Restitution Law until his claim has been filed. For this reason a potential claimant who did not file his claim by 31 December 1948 would be unable to avail himself of the provisions for restitutio in integrum which would normally be open to him under this procedure (see Gesetz ueber die Angelegenheiten der Freiwilligen Gerichtsbarkeit, as amended; and Code of Civil Procedure (ZPO, Section 233(1)).

4. Nor would it be possible for a potential claimant to succeed in a tort action for damages against a restitutor who failed to file the report required by Article 73 of MG Law No. 59, as a result of negligence or fraudulent intent. A tort action of this nature could normally be brought under Sections 823 (2) and, possibly, under Section 826, German Civil Code (BGB). However, the tort actions under consideration could

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By ANT NARA Date 7/14/79

not be prosecuted before restitution authorities only if they were filed within the period of limitation. In view of the fact that the period of limitation has not been complied with in the situation described by you, the restitution authorities lack jurisdiction over these claims. Nor could such tort actions be enforced by German ordinary courts. Article 57 (second sentence) of MG Law No. 59 provides that claims based on tort "which do not come under the provisions of this law" may be prosecuted in the ordinary courts. Since these claims come under the provisions of MG Law No. 59, even though they contain additional elements, prosecution in the ordinary courts would not be permissible.

5. This conclusion is not inconsistent with Article 71 of MG Law No. 59. Article 71 provides for a certain procedure in the event that claims as described in Articles 1-48 are asserted by a person entitled to restitution. Even in the event that Article 71 applies not only to restitution cases pending before ordinary courts at the time when MG Law No. 59 goes into effect, but also to cases prosecuted afterwards, it appears that the procedure set forth in Article 71 is applicable only if a claim has been filed within the time limit prescribed in Article 56, which is not the case in the situation described by you.

FOR THE DIRECTOR:

Telephone 43706

sgd. JAMES E. HEATH  
Chief, Legal Advice Branch

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At Authority **ND775057**  
By **TJ** NARA Date **7/16/99**

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U. S.)

Office of the Military Governor

APO 742

June 1949

SUBJECT: Interpretations of Articles 11 and 56 of  
Military Government Law No. 59  
(Restitution of Identifiable Property)

TO : Directors,  
Office of Military Government for Bavaria  
Office of Military Government for Hesse  
Office of Military Government for Wuerttemberg-  
Baden  
Office of Military Government for Bremen  
Office of Military Government for Berlin Sector \*

\* For information only

1. Article 11 of Military Government Law No. 59 provides that where a claimant has not filed a petition on or before 31 December 1948, a successor organization by virtue of filing the petition shall acquire the legal position of the claimant. Only after that date, and not prior thereto, shall a successor organization be entitled to prosecute such claim.

2. Article 56 of Military Government Law No. 59 provides that any petition filed by a person or successor organization who is not entitled to restitution of the property, shall be deemed to have been effectively filed in favor of the true claimant, another person or a successor organization, as the case may be.

3. In order to set forth the policy of Military Government with reference to the interpretations of the above-mentioned Articles of Military Government Law No. 59, it is requested that the Minister Presidents (in Bremen, the President of the Senate) be directed to issue appropriate instructions to the Restitution Authorities, to the following effect:

a. That Article 11, paragraph 2, was not intended to confer on any successor organization any priority or preference in substantive rights on the basis of petitions filed for properties for which no other claim was filed before 31 December 1948;

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NARA Date

7/16/99

By

TJ

NARA Date

11/4/99

"Interpretations of Articles 11 and 56 of MG Law No. 59  
(Restitution of Identifiable Property)", dtd. June 1949

b. That if a rightful claimant, heir, or legatee of any property who failed to file a petition as of 31 December 1948, subsequently appears or is ascertained, such claimant or heir shall be subrogated to all the rights and interests of any person or successor organization who, or which, may have timely filed a petition. Any dispute as to the right of such claimant, heir, or legatee shall be determined by the appropriate Restitution Agency or court, and the decision of such agency or court shall be subject to appeal and review in the same manner as in other cases.

c. That against any property recovered by a successor organization and subsequently delivered to a proper claimant, heir, or legatee, the successor organization shall be entitled to assess any costs attributable to recovery of the property involved, receive the amount thereof from the claimant, heir, or legatee, and, if necessary, secure payment thereof out of the property itself before delivery.

d. That a successor organization shall not be precluded from prosecution of its claim in any case where a subrogated claimant, heir, or legatee is disqualified.

BY DIRECTION OF THE ACTING MILITARY GOVERNOR:

Tel: BERLIN 43684

FREDERICK A. STURM  
Lieutenant Colonel, AGD  
Acting Adjutant General

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Authority NND 775057  
By ANT NARA Date 7/14/99

Box 9

"Amicable Settlements"

File 18

v. Anjaire property

- Copy -

MINISTRY OF FINANCE  
WÜRTTEMBERG - BADEN  
Property ControlStuttgart, 23 June 1948  
45 Heustigerstr.

XC 1503 - 18

To  
Dr. Benno Osterdag  
Attorney and Notary  
Stuttgart - S.  
15 A Charlottenstr.

SUBJECT: Strauss / Dempel KG.

REF.: Trunk-call as of 22 June 1948.

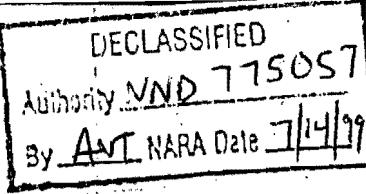
The Chamber of Restitution has ordained the temporary return of the property following Art. 67, fig. 2, lit. d. With respect to the particular conditions of the case involved, therefore, no objections appeared to exist against exceptionally ordaining the property to be restituted.

However, a letter of the IPCC, dated 19 June 1948, received today, hinders the Property Control to implement that decision. Any operation in restitution claims is held unlawful by the IPCC pending prior submittance of the concrete case of restitution to the German Chamber of Restitution by the Central Claim Office. Following such exception the Restitution-Department of the Ministry for Justice has been directed by IPCC, to postpone all further operation and decision on all claims until further clearing the Property Division CMWS.

Any decisions made by the Restitution Board so long are considered "irregular" by the IPCC stating the possibility of their approval as being improbable. Thus, the VGW feels itself unable to implement the restitution order.

Under those conditions, it may, at first, remain dubious whether, with conditions existing as cited by you, it would not be practicable to renounce at an inventorying prior to the release. In any case, of course, any such renunciation would remain outside of consideration without the consent of the one obligated to submit to the restitution, in each case.

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With reference to the release of any ~~privatized~~ property on basis of Art. 67, para 2, lit.d, and other places, the VGV is inclined to hold that such restitution may not be conceded on principle. In G-cases, property control rests on Art. I, para. 2, Military Government Law No. 52 intended to insure the security and preservation of the property contested as to ownership. This does not preclude that the temporary decision will not be approved. Given such cases, possible changes in property would be considerably endangering the property. Now is the Restitution Law able to release the VGV, established for paying attention to Law No. 52 of the responsibility to hinder this. An eventual indemnification claim, in using, in a similar juristic way, paragraphs 717 or 945 ZPO, presents no adequate substitute for the security as guaranteed thru Property Control. No parity as to value can be conceded to such claim for indemnification unless it appears realizable, on principle, which may not be considered in all cases.

Hence it might be inferred that, on principle, the property control should be maintained also in the case of Art. 67. Such control, possibly, is to be modified insofar as limiting full power of the acting trustee to the control appertaining to a supervisor. Nor with the legal status of the one authorized to restitution after Art. 67/2/d sentence 2 etc. become impaired through a property control on such basis. There will be no changes as to him remaining authorized to perform normal transactions. No right, however, can be allowed by that directive as to dispositions of a more far-reaching order, because otherwise the anticipating character of that, as it is, so far but temporary decision would be altered, rendering in a certain way the temporary decision into a final one.

The VGV regrets that, in this case especially the conception held by Military Government represents an impediment to the acceleration you have been asking for.

/s/ Judith

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Authority NND 775057

By ANT NARA Date 7/14/99

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Box 9

"Amicable Settlements"

File 18

--- 696-A ---

Nuernberg, Germany  
7 July 1948

SUBJECT: Dr. Benno Ostertag

TO : Colonel Raymond

1. The activities of this individual were brought to my attention by the Chief of the German Court Section OMG Wuerttemberg-Baden, in connection with the information concerning the appointment of members of the restitution chambers under the restitution law which you asked me to pass on to the Legal Directors.

2. The subject individual so far as known is not involved in matters concerning the appointment of personnel. The facts concerning him as reported to me by the Chief of the German Courts Section, OMG Wuerttemberg-Baden are that this man, although Jewish, retained a practice of some volume during Nazi times. During the Nazi period when expropriation or confiscation of Jewish property was undertaken in the Stuttgart area, it is understood that he frequently was consulted by Nazis and SS officials to determine what Jewish property would be taken over. He maintained such relations with these officials, that his practice was never terminated. In consequence he has a first hand familiarity of the factual situation in a large number of restitution cases in the Stuttgart area.

3. He now represents a number of clients who are interested in such cases.

4. In addition it appears that Ministry officials have consulted with him on cases, although so far as is known these consultations have not occurred in any case in which he represents a party, for the purpose of determining appropriate action in respect to them. It also appears that he maintains quite close relations with the Ministry on matters generally concerning the restitution law. It is understood that he sat in on the drafting of the overall restitution procedure in Wuerttemberg-Baden area and it is said that he probably drafted or assisted in the drafting of some of the implementing regulations under the restitution law for Wuerttemberg-Baden. So far as is known this service is rendered without pay.

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Authority NND 775057  
By ANT NARA Date 7/14/99 E T

5. This information is obtained from German sources through the German Court Section, OMG W-B. Mr. Brown was unable to verify its accuracy although he believes it to be generally correct.

6. Mr. Brown also noted that the Property Control Office of OMG W-B views the subject individual with some disfavor.

7. The present position of the German Court Section OMG W-B is that there is not enough to warrant action inasmuch as so far as appears Ostertag's relations with the Ministry are as a result of the Ministry's consent or perhaps request and are without pay. On the other hand his activity is at least near the borderline of what is proper conduct and could easily result in improper influence.

8. I have asked Mr. Brown to watch the situation.

9. In view of the previous problem that has occurred in connection with appointments to the Restitution chambers, it has seemed to me best that I report this information to you, so that I may have your instructions as to what other and further steps we should take in the matter. My own view is that at the moment there is nothing upon which to specifically condemn the individual. On the other hand I question the propriety of a private attorney without any official capacity taking part either with the consent or the request of the Ministry officials in the drafting of procedural regulations under which he will proceed to press claims of clients. In view of our previous experience, this may be enough for us to initiate some further action, perhaps through advice to the Ministry that we do not approve such practice.

CHARLES H. KRAUS  
Chief  
Tele Nuernberg 61494      Administration of Justice Branch

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Authority NND 775057  
By ANI NARA Date 7/14/99

"Amicable Settlements"

Box 9

RG 260

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File #18

Amicable Settlements under MG Law No. 59

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17 Aug 48

1. Reference is made to Item 1 of this carrier sheet in which the opinion of this Division is requested upon two questions:

a. what are the requirements, other than those imposed by MG Laws Nos. 52 and 53, for an amicable settlement of a claim within the scope of MG Law No. 59;

b. what requirements must an amicable settlement of such a claim fulfill so that transactions made in connection therewith are licensed under MG Laws Nos. 52 and 53 by General License No. 10, issued pursuant to MG Law No. 52, also known as General License No. 4, issued pursuant to MG Law No. 53.

Question a.

2. Amicable settlements made in connection with claims within the scope of MG Law No. 59 as to which no petition has been filed under Law No. 59. An amicable settlement in a claim as to which no petition has been filed with the Central Filing Agency is not forbidden by MG Law No. 59. Article 57 of Law No. 59 does not appear to prohibit the enforcement of such a settlement by ordinary judicial proceedings. See para. 3 a) below. However, all such settlements would require licenses under MG Law No. 52, and, in certain cases, MG Law No. 53, in order to be effective. See Articles I, II and V of Law No. 52; Articles I and II of Law No. 53; para. 4 below.

3. Amicable settlements made in connection with claims as to which a petition has been filed under MG Law No. 59. An amicable settlement may also be made after filing a petition pursuant to, and within the scope of, MG Law No. 59. Law No. 59 does not set forth the requirements for perfecting an amicable settlement. The requirements for the perfection of amicable settlement are, therefore, determined by the general principles of the law of contracts. In the case of a settlement involving personal property, title passes upon consent and delivery (Section 929 of the German Civil Code). Before title passes in a settlement involving real estate, consent and judicial or notarial authentication of the agreement are required (Section 873, 925 of the German Civil Code).

a. Military Government Law No. 59 contains no requirement that the parties report to the Restitution Agency an amicable settlement reached after a petition has been filed with the Central Filing Agency. Cf., Article 62 of MG Law No. 59. Article 57 provides that

"Unless otherwise provided in this Law, any claim within the scope of this Law may be prosecuted only under the provisions and within the periods of limitation, set forth in this Law".

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By ANT NARA Date 7/14/99

Amicable Settlement

This language cannot be interpreted as prohibiting the enforcement of such a settlement by judicial proceedings since the proceedings would not arise out of the claim under Law No. 59 but out of the settlement. Nor does Article 71 require that ordinary judicial proceedings arising out of settlement be reported to the Restitution Agency by the court entertaining such proceedings.

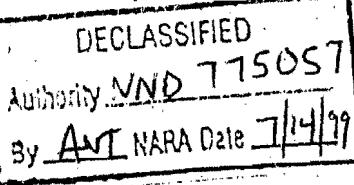
b. All petitions filed under Military Government Law No. 59 will, even though the parties have agreed upon a settlement, be processed in accordance with the procedures established by that Law. It is assumed that, in the course of the proceedings contemplated by Articles 61 and 62, the Restitution Agency would ordinarily be notified of the amicable settlement and that this settlement would then be recorded as provided for in Article 62(3). If this were not done, and if no objection were raised against the petition as filed, the Restitution Agency would under Article 62(1) issue an order granting the petition. Any difficulties arising out of possible differences between the settlement and such an order would be resolved under general principles of law.

Question b.

4. General License No. 10 covers amicable settlements and transfers of title made with reference to a claim for restitution properly filed with the Central Filing Agency, provided that the claim for restitution was filed by way of a petition on behalf of a persecuted person or his heir or legatee, but not his assignee, and that none of the exceptions set forth in paragraph 2 of General License No. 10 are present.

Rm 2127, Dir Bldg  
Tel 44614

JOHN M. RAYMOND  
Colonel GCM  
Director



Box 9  
"Amicable  
Settlements"  
File 18

Counselors-at-Law Dres. Osterstag (Notary) and Ulmer  
(14a) Stuttgart 3, Charlottenstr. 15A.

Telefon: 9 12 77

TO: Mr. William J. Dickman  
Property Division CMGUS  
Wiesbaden  
Taunusstrasse 9  
APO 632

Your Ref.:  
/B

Date:  
24 June 1948

Dear Mr. Dickman:

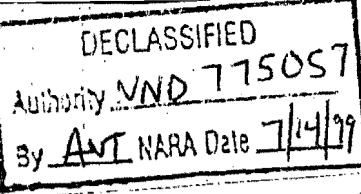
Regarding restitution cases, difficulties are arising here now after the authorities have done excellent work and achieved fine results.

As I already told you at a session of the Legal Committee, we handle the cases as follows:

Every claim is properly filed at Nauheim. In urgent cases, a duplicate of the claim to be filed at Nauheim (in every case, the filing at Nauheim was done previously) is transmitted to the arbitrator. In addition, the latter is forwarded the whole matter in the form of a statement of the claim, where the petitions and reasons have been formulated more extensively than in the claim filed at Nauheim. The arbitrator serves the pleadings and sets the period of limitation in compliance with Restitution Law. In some instances, as in an urgent case, he somewhat reduces the two-month period of limitation otherwise granted for submitting the statement. On the other hand, he extends such period of time if the opposite party requests and motivates such extension. In this way, amicable settlements were achieved, even in matters of importance. Two cases were transmitted to the Restitution Chamber after the attempts had failed to bring an amicable settlement. Under Article 67, 2 d, the Restitution Chamber already issued orders to return plants to the claimants.

As I am given to understand from the Main Property Control Agency, Mr. Fischbein has now raised objections. He stated to Dr. Porter, Land Property Control that cases should not be processed unless Nauheim has forwarded the papers. In this connection, I received the attached letter by the Main Property Control Agency.

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Nauheim, however, does not function at all. Yesterday, for example, I received notifications setting forth that by now, that is on 23 June 1948, they are transmitting to the arbitrator my petition I had filed at Nauheim on 15 January 1948. Most of the other cases are taken care of in exact the same manner. One of the cases having been received by the arbitrator on 23 June, was settled amicably long ago. Very often, both parties want an amicable settlement. If we were to act on the suggestions of Mr. Fischbein and Dr. Porter, a delay would result which would be contrary to the interests of either party.

The principle of the Restitution Law is set forth in Article 1. Everything shall be done to expedite restitution. The attitude of both gentlemen, however, would result in a delay which will be by no means tolerable.

Law 52<sup>1</sup> is likewise a protective law in behalf of the entitled person. The way, however, in which it is to be carried out renders the law a law persecuting the entitled person. That can never have been the intent of Military Government.

You all will be agreed with me that a speedy restitution is aimed at, but nonsensical formalism is inimical to restitution. As you have always advocated an objective and reasonable solution, I request that you reject the endeavors undertaken by Mr. Fischbein and Dr. Porter. I cannot imagine that the American public is in favor of the procedure both gentlemen have resorted to. Anyway, Nauheim and Stuttgart Property Control are no authorities which have been set up to suit themselves, but to ensure restitution.

As you will have gathered from the letter, the other question has arisen now what function will be assigned to Property Control when, by an order of a law-court, any plant is temporarily to be returned to an individual entitled to restitution. As Dr. Kuester and I feel it, Property Control will no longer be of any use. The term "Treuhänder" (trustee) does not mean "custodian", but a "trustee" in the meaning of old German legislation. Towards a third party, the entitled person functions as a trustee, otherwise he is the owner. The ruling of the law-court has the same effect as though, in contentious jurisdiction, the return of a property has been obtained through an interlocutory enforceable judgment. If a subsequent instance would nullify the ruling - an action which in such cases is impossible - , the entitled person would be liable to the same extent as he would be responsible according to the Code of Civil Law after he has enforced execution by virtue of an interlocutory enforceable judgment,

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By ANT NARA Date 7/14/99

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that is he responds by his entire property.

I should appreciate it if you would take care of the matter energetically at your earliest convenience because red-tapism is interfering here with efficiency of operation.

In dealing with Property Control instrumentalities, one feels the strong influence of the individuals who promoted Aryanizing actions. May be, such influence also affects the Stafflenbergstrasse officials, though they would never admit such effect.

If the law shall be enforced, such end can be secured only in the way in which we have been proceeding in Wurtemberg. I think our way of operating has been exemplary so far.

This letter is an SOS in the interest of the entire Restitution Law.

With kind regards,

I remain faithfully

yours,

DR. OSTERTAG

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Authority NND 775057  
By AC NARA Date 9/27/99

RG 260 OMEUS  
Entry Rec. Prep Div.  
File  
Box 9 390/44/20/1-3

SUSPENSE JULY 1

WJD/mn

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)  
PROPERTY DIVISION  
Property Control and External Assets Branch  
APO 633  
Wiesbaden, Germany

17 June 1948

SUBJECT: Handling of Claims under MG Law No. 59  
in Wuerttemberg-Baden

TO : Director,  
Office of Military Government for Wuerttemberg-Baden  
APO 154, U.S. Army

Attn: Mr. Zinn Garrett  
Land Property Control Chief

1. Attached you will find copy of a report received from Mr. Fischbein, Chief of the Central Filing Agency, on the improper handling of claims under Military Government Law No. 59 in Wuerttemberg-Baden. It is requested that on the basis of this summary report a more detailed factual report on the situation be submitted so that corrective action may be taken by this office.

2. The filing of claims with any agency other than the Central Filing Agency at Bad Nauheim is not in compliance with the provisions of Military Government Law No. 59, and individuals may lose their claims if by the end of the filing period no claims have been filed with the Central Filing Agency. The mere sending of a copy of a claim filed elsewhere is insufficient. While it is the purpose of the Law to effect to the largest extent possible the speedy restitution of identifiable property to persons who were wrongfully deprived of such property, for any of the reasons stated in the Law, such policy should under no circumstances permit the preferential handling of cases of any individual. Any such practice would have to be stopped immediately.

3. Your report should also cover point 5 of Mr. Fischbein's report concerning the release of property in cases where claims were not properly processed.

4. It is also requested that you forward to this office a list of petitions processed in Wuerttemberg-Baden which have not been filed with the Central Filing Agency.

1 Incl: a/s  
Telephone: Wiesbaden 8341  
Ext 426

FRED E. HARTZSCHE  
Chief

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Authority NMD 775057  
By DR NARA Date 9/23/99

KG 260 OMGUS  
Entry Rec. Prep Div.  
File  
Box 9 390/44/29/13

C O P Y

ZENTRALANMELDEAMT  
(Central Filing Agency)  
Bad Nauheim, Germany

SUBJECT: Handling of Claims under MG Law No. 59 in Wuerttemberg-Baden 15 June 1948

TO : Claims Section  
Property Control & External Assets Br  
Property Division, OMGUS  
APO 633, U.S. Army

Attn: Mr. W. J. Dickman

1. Information received at the Central Filing Agency regarding the handling of claims under Military Government Law No. 59 by German authorities of Land Wuerttemberg-Baden is transmitted to you herewith.

2. This information was fully confirmed during the attendance of the Chief of the CFA at a meeting of the Committee for a General Restitution Law in Stuttgart on 9 June 1948, and during subsequent discussions with individuals, and officials of Property Control Br, OMG Wuerttemberg-Baden.

3. Since the promulgation of Military Government Law No. 59, an estimated several hundred claims have been filed directly with the Ministry of Justice or the Restitution Agencies of Wuerttemberg-Baden, and not with the CFA in Bad Nauheim.

4. German authorities (Dr. Elben or Dr. Koehler of Justizministerium Abt. VI Wiedergutmachung) admitted that about 55 of these claims were being processed.

5. Mr. Garrett and Mr. Porter of Property Control Br, OMG Wuerttemberg-Baden, confirmed the information given under 3. and 4. and added that one or more cases had been decided in the German courts, and that some property held under Property Control had been released thereupon.

6. During the discussion of the German General Claims Law, one of the participants, Dr. Benno Ostertag, who is also a member of the Government of Wuerttemberg-

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KG 260 OMGUS  
Entry Rec. Prop. Div.  
File  
Box 9 390/44/20/1-3

C O P Y

Central Filing Agency  
Handling of Claims under MGL No. 59 in Wuertt.-Baden  
15 June 1948

Baden and has close connections with the Wuerttemberg-Baden Justizministerium, informed the Chief of the CFA:

a. that he was an attorney and was acting for claimants under Military Government Law No. 59,

b. that his claims were now being processed in the courts,

c. that the claims had never been filed with the CFA,

d. that he had recently started to send five copies of each petition [already being processed] to the CFA for "registration".

7. Comments made by Dr. Kuester, Minister of Justice for Wuerttemberg-Baden, reveal that he is familiar with the whole situation and condones it.

8. Mr. Porter offered to procure and forward to OMGUS a list of petitions processed in Wuerttemberg-Baden which have not been filed with the CFA.

9. The handling of petitions in Wuerttemberg-Baden in the indicated manner results in

a. direct violation of Military Government Law No. 59 in several respects,

b. preferential treatment of claimants who are clients of Dr. Ostertag and other attorneys handling cases to the disadvantage of claimants who file with the CFA, at the same time opening up other possibilities of discriminatory practice,

c. possibility that claimants lose their rights if petitions are not filed with the CFA before the expiration of time limits,

d. creation of disrespect for Military Government laws and regulations which can already be noted in correspondence maintained between the CFA and the Justizministerium of Wuerttemberg-Baden,

*Review  
book of  
Procedure*

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C O P Y

Central Filing Agency  
Handling of Claims under MGL No. 59 in Wuertt.-Baden  
15 June 1948

e. creation of difficulties to Military Government authorities, particularly Property Control Br, affecting their responsibility for property taken under control and its subsequent release,

f. inherent possibilities for public scandals.

10. Property Control Br, OMG Wuerttemberg-Baden, views the whole situation with alarm and desires instructions.

11. This report is made to you for your information.

Telephone: Bad Nauheim 5093

BERNARD FISCHBEIN /s/  
Chief

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RG 260  
Property Div.  
Box 10Authority NND775057  
By TJ NARA Date 7/16/99

"Law 59:  
Expediency Plan"  
Box 10, File 44  
Procedures

CENTRAL FILING AGENCY

## Functions:

1. Filing office for petitions (Art. 55,1) and reports (Arts. 73 and 74).
2. Transmittal of petitions (Art. 55,2) and reports (Art. 73,4) to the appropriate Restitution Agency or Agencies.
3. Issuing of receipt of petitions to claimants (Art. 58,5).

LAND CENTRAL OFFICES

Not provided for under Law 59.  
Established by the German Land Governments.

## Functions:

1. Administration of RA's within the respective Laender.
2. Channeling of petitions and reports transmitted by CFA to RA's.
3. Submission of periodic statistical progress reports to HICOG.

RESTITUTION AGENCIES

## Functions:

1. Giving notice of the petition by formal service on the parties concerned (Art. 61,1) or publication (Art. 61,2).
2. Granting petitions (Art. 62,1).
3. Dismissing petitions (Art. 62,2).
4. Attempting to reach amicable settlements (Art. 62,3).
5. Referring cases to other Restitution Agencies (Art. 59, venue).
6. Referring cases to Restitution Chamber (Art. 63 and 64).

LAND CENTRAL OFFICE  
BAVARIA

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graph TD
    A[LAND CENTRAL OFFICE BAVARIA] --- B[R.A. MUNICH]
    A --- C[R.A. REGENSBG]
    A --- D[R.A. FUERTH]
    A --- E[R.A. WUERZBG]
  
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### RESTITUTION CHAMBERS

German judicial bodies of first instance.

#### Functions:

1. Adjudicating cases referred to them by Restitution Agencies under Art. 63 and 64 (Art. 67).

CHAMBER MUNICH  
SUB-CH. MUNICH  
SUB-CH. TRAUNST.

CHAMBER REGENS<sup>B</sup>

CHAMBER NUERNBG.  
SUB-CH. BAYREUTH

CHAMBER WUERZBG.

OLG MUNICH

### OBERLANDESGERICHTE

German Courts of Appeal.

#### Functions:

- Hearing appeals from decisions of Restitution Chambers (Art. 68, 2).

### BOARD OF REVIEW

Now: Court of Restitution Appeals.

Highest court of appeals composed of American judges.

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By TJ NARA Date 7/16/99

"Law 59 "Expediting  
Plan" Box 10  
OK File 44

OFFICE OF THE UNITED STATES HIGH COMMISSIONER FOR GERMANY

Office of Economic Affairs

Property Division

Internal Restitution Supervision Branch

APO 807

Bad Nauheim, Germany

1/31/58

Miro Klink

File Law 59

Expediting Program

Conference Held at Bad Nauheim on December 14, 1949

Present:

|                     |   |
|---------------------|---|
| Mr. F.J. Miller     | Chief, Property Division  |
| Mr. W.G. Daniels    | Deputy Chief, Property Division   |
| Mr. W.M. Loewenthal | Chief, Internal Restitution Supervision Branch  |
| Mr. S. Laks         | Deputy Chief, Internal Restitution Supervision Branch   |
| Mr. L.E. Yager      | Land Supervisor, Internal Restitution Supervision Branch, for Wuerttemberg-Baden and Land Hesse                             |
| Mr. G.E. Dickerson  | Land Supervisor, Internal Restitution Supervision Branch, for Bavaria   |
| Mr. J.P. McNulty    | Chief, Property Branch, HICOG, Berlin Element   |
| Herr Schweig        | Treuhaender der Amerikanischen, Britischen und Franzoesischen Militaerregierungen fuer zwangsuebertragene Vermoegen, Berlin |
| Dr. Endres          | Head of the Bavarian Land Central Office for Restitution  |
| Herr Nippa          | Statistician of the Bavarian Land Central Office for Restitution  |
| Dr. Weissstein      | Deputy Land Civilian Agency Head for Hesse  |
| Herr Schroeder      | Statistician of the Hessian Land Central Office for Restitution   |
| Dr. Mayer           | Referent of Department VI of the Ministry of Justice for Wuerttemberg-Baden   |
| Herr Zeller         | Statistician of Department VI of the Ministry of Justice for Wuerttemberg-Baden   |
| Dr. Mueller         | Head of the Bremen Land Central Office for Restitution  |
| Herr Schmeisser     | Assistant to above  |
| Herr Leber          | Legal Consultant, Property Division   |
| Herr Bossert        | Consultant of Land Supervisor for Bavaria   |
| Herr Schlenker      | Consultant of Land Supervisor for Wuerttemberg-Baden  |
| Herr Dehn           | Manager of the Central Filing Agency  |
| Herr Zimmermann     | Deputy Manager of the Central Filing Agency   |
| Herr Schaller       | Head of the Accounting Section of the Internal Restitution Supervision Branch   |
| Miss Rodewald       | Secretary to Chief, Internal Restitution Supervision Branch   |
| Miss Kratzsch       | Secretary to Deputy Chief, Internal Restitution Supervision Branch  |

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## M I N U T E S

Mr. Loewenthal opened the conference with the remark that it was the first of its kind after the Occupation Statute had come into effect. He thanked the participants for coming and expressed the hope that the cooperation between his Office and the German authorities represented by the attending gentlemen would continue to be a successful one. He asked the participants for their continued support and stated that he hoped that in the future the German authorities could be given more and more responsibility for the supervision of the Restitution Program in the US Zone.

Mr. Miller then addressed the conference. He said that he fully appreciated the work that had been done until now but that a very large task had still to be accomplished, which was clearly shown by the charts displayed in the conference room. He emphasized that the responsible US authorities attach great importance to the expeditious completion of the Restitution Program and that it is the firm resolution of the American Occupation Authorities to see the Restitution Program carried out without changes in the principles laid down in MG Law No. 59. He considered it essential that this be expressed at this conference, the participants of which are directly concerned with the execution of the Restitution Law. In this connection Mr. Miller referred to certain publications in the press with regard to eventual changes in the Restitution Law for the American Zone. He wished to have it known that the Office of the High Commissioner is not considering any changes in the substantive provisions of MG Law No. 59 and that it is more than ever determined to see the Program through. This does not mean that there would not be any changes at all in Law 59 - in this connection Mr. Miller referred to the Board of Review and eventual changes in the court system - he would, however, like to stress again that with regard to the substantive provisions no changes are to be expected.

Mr. Miller further talked about the progress made so far in the execution of the Restitution Program. He said that he was aware of the difficulties which the individual Laender had to face financially, however the present rate of progress will have to be increased since it would otherwise take years to complete the Restitution Program. He mentioned that the Restitution Program was not a popular one and that, as time goes by, it would become even less popular. This meant that a program the completion of which would normally take four to five years, would have to be completed in one year or a little more than one year. How this was to be accomplished, he would not tell; he therefore asked the competent German authorities, which were familiar with the particular procedures in the various Laender, for their advice.

Mr. Loewenthal then stated as follows: Before the Heads of the Land Central Offices begin with their reports, he wished to stress the importance which his office and thus the Property Division attach to their statements. Information is to be gained of the plans existing in the individual Laender for the acceleration of the Restitution Program, taking into consideration the difficulties in carrying out such plans and the necessity of an eventual intervention on the part of the High Commissioner. It is again emphasized that the Restitution Program as far as the restitution agencies are concerned is to be completed, if possible, until the end of 1950 or, at the latest, during the year 1951. With regard to the chambers it seems to be premature to set a definite date; however, it could be said already now that the date for the completion of the Program by the chambers should be in proper relation to the disposition of cases by restitution agencies.

Mr. Loewenthal then presented some statistical data: Up to the end of November 1949, a total number of 55,208 cases had been received by restitution agencies. Of this number 6,625 cases or 12% of the total number of individual claims received had been finally disposed of in the eighteen months during which restitution authorities could be considered in full operation. The Internal Restitution Supervision Branch (hereinafter referred to as "IRSB") expects a total workload for restitution authorities in the US Zone of 110,000 cases, consisting of approximately

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55,000 individual cases and 55,000 JRSO cases. Of these 110,000 cases, according to the rate at which individual petitions had been distributed among the Laender, 40,000 cases would have to be handled by restitution authorities in Bavaria, 41,000 by Hesse, 26,000 by Wuerttemberg-Baden, and 3,000 by Bremen. The number of cases disposed of by restitution agencies during the month of November was 1,306. IRSB expects that even without increases in personnel or increases in the number of restitution agencies, their dispositions would increase by 75%, because of basic decisions, the promulgation of the General Claims Law, and the increasing familiarity of key personnel with restitution matters. Increasing 1,306 cases (the highest number of cases disposed of by restitution agencies in any one month) by 75%, a monthly disposition of 2,285 cases is arrived at. Accordingly, approximately four years would be required by restitution agencies for the disposition of the total workload of 110,000 cases.

The same picture is obtained in estimates for the Laender Bavaria, Hesse, and Wuerttemberg-Baden, while the time required in Bremen is 2 3/4 years. Notwithstanding the 75% "automatic" increase of the present rate of disposition, which in his opinion constitutes a considerable allowance, restitution agencies would have to be doubled in order to complete the restitution program within the next two years.

To-date, 38.8% of the total number of cases disposed of by restitution agencies had been forwarded to restitution chambers. It may be assumed that this rate will decrease as the Program progresses by approximately 25%, as a result of more basic decisions becoming available, so that in the future only approximately 23% of the total number of cases disposed of by restitution agencies would be forwarded to chambers. Of a total number of 110,000 cases to be handled by restitution agencies, approximately 25,400 cases would thus be forwarded to restitution chambers. The total number of cases adjudicated by restitution chambers in November amounted to 141. It may be assumed that, with basic decisions becoming known, with judges becoming more and more familiar with restitution matters and being assigned restitution cases only, this number will increase by 75%. With a total workload of 25,400 cases the chambers would thus need approximately 8 years and 7 months for the adjudication of restitution cases before them.

On the basis of these estimates it appears that the capacity of restitution chambers will have to be tripled or quadrupled in order to complete their work within a time considered reasonable in the sense of the Law.

Mr. Loewenthal then asked Dr. Endres to give his report for Land Bavaria, pointing out that the reports of the Heads of Land Central Offices would be used as a basis for a report to the Property Division, which most likely would utilize the report in statements to higher authorities.

In his initial remarks Dr. Endres thanked the US authorities, also on behalf of his colleagues, for this opportunity of a mutual exchange of ideas. He referred to the meeting which was held recently by German authorities concerning restitution activities and emphasized the importance of such discussions. He recommended that the American authorities from time to time reinstate their views, e.g. the Minister Presidents should be impressed with the urgency of a speedy execution of the Restitution Program. This is of major importance not only to achieve justice and equity, but also for the sake of the German economy. Regarding past activities of restitution authorities he pointed out that restitution was an entirely new field, but that the early difficulties had now been overcome. In November the number of cases settled had increased and in his opinion monthly dispositions will continue to increase considerably. However, the time required for the completion of the Restitution Program could not be determined until the middle of 1950. In this connection Dr. Endres stated that the restitution agencies greatly depend on higher courts, including the Board of Review, since many decisions involving basic issued can only be made by the higher courts. He further mentioned the difference in the interpretation of the Law existing among the individual Laender involving principal questions and that clear coordination is now being sought in this respect.

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He then referred to the discussions held with the Ministry of Finance and the Ministry of Justice after the meeting on November 14, 1949. Regarding an increase of funds the Finance Ministry had declined that. An increase in the fiscal year 1949/1950 is only possible by a decision of the Landtag and such increase would only be considered if requests or suggestions of the American authorities were directed to the Minister Presidents. For the fiscal year 1950/51 (April 1, 1950 to March 31, 1951) it was planned to increase the present budget of 1,2 million DM by 300,000 DM, but the use of these additional funds for the current fiscal year would not be granted. Negotiations are carried on with the Ministry of Justice which has no restitution budget of its own, but which is subsidized extensively with restitution funds allocated to his office. Expenditures for witnesses and expert fees alone amounted to more than 20,000 DM, which had not been provided for originally.

Regarding the difficulties concerning the personnel, in Bavaria these can be found especially at the Chambers which originally had been established as sub-offices whose members had only devoted part of their time to work in the field of restitution in addition to their main duties. But as a result of the discussions on November 14, the Chamber Munich now has two fully employed members instead of one, Fuerth also has two full-time members, and Wuerzburg, which until now was the weakest in personnel, has four full-time members. This change is the result of instructions issued by the Ministry of Justice, on November 18. He considers the steps taken in Bavaria very appropriate, because the full employment of judges is more important than a numerical increase in personnel at the Chambers and Oberlandesgerichte. There was a certain backlog of work at the Chambers Nuernberg, Wuerzburg, and a small backlog in Munich; however the Ministry of Justice was of the opinion that with the exclusive assignment of judges to restitution, the Chambers will be able to dispose of all cases on a current basis.

Taking December 31, 1951 as the date for the completion of the restitution program by the Restitution Agencies, an increase in personnel would be necessary only in the big agencies, i.e. Munich, Nuernberg-Fuerth, and Wuerzburg, that is by increasing the number of officials with legal background by one third.

Another difficulty in connection with the increase in personnel would be the acquisition of additional office space. That would be extremely difficult, if not almost impossible, in Nuernberg-Fuerth and, to a lesser degree, in Wuerzburg too, whereas in Munich there is no such problem. Quite often two or three officials had to use one room together. The results of this condition were very unfavorable.

Dr. Endres said that he hoped to be able to start soon with preparations for the necessary increase in personnel and the enlargement of office space. Answering Mr. Loewenthal's question whether he thinks that any action by American authorities would be necessary, Dr. Endres replied that he did not think this necessary, nevertheless, it would be of value if a notice was sent to the Land Central Offices informing them that the date for the completion of the Restitution Program by restitution agencies was set for 31 December 1951. This information would be used as reference regarding any requests they may make. Mr. Loewenthal asked Dr. Endres to keep him informed through Mr. Dickerson regarding further developments.

In conclusion Dr. Endres referred to the letter of IRSB dated November 8, in which the date for the final disposition of all restitution cases at the restitution agencies was given as December 31, 1950. Thereupon Mr. Loewenthal declared that this was done only to bring forth a sound reaction of the respective authorities.

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Asked for his opinion about special measures for the handling of JRSO petitions, Dr. Endres replied that in all agencies in Bavaria one official was especially entrusted with work on JRSO petitions.

Dr. Weissstein began his statement with the remark that both the American and German authorities agreed that everything had to be done to execute the program as laid down in Arts. 1 and 49 of the Law. The speedy completion of restitution was necessary for economic reasons as well as for reasons of political satisfaction and justice. The question now is: What ways and means are to be adopted?

He said that regarding the basic issues he fully agreed with Dr. Endres' statements.

In his report on Hesse Dr. Weissstein first talked about the chambers which regard to which the picture appeared very favorable. There exist in Frankfurt 3 chambers, in Kassel 2, and in Giessen 1, or 6 altogether. All members of these chambers were exclusively working on restitution cases. During the discussion in October between the Legal Division and the Ministry of Justice it had furthermore been resolved that the number of chambers would be increased as soon as this would become necessary. Two more chambers were intended for Frankfurt which, as had been suggested, might not be established in the city of Frankfurt itself, but in Darmstadt and Wiesbaden. In Giessen, where there was at present only one chamber, a second chamber was to be added. It had been suggested that this second chamber have its seat in Marburg. However, this would not be advisable should the Restitution Agency Marburg be dissolved. The Ministry of Justice kept a watchful eye on the development, and the Land Central Office was instead in contact with the Ministry of Justice. Certain difficulties existed with regard to the personnel. It would be ideal and desirable to have presiding and associate judges who are not affected by the Law for Liberation. However, no great number of such judges was available so that in some cases it might not be possible to fully comply with that principle. He had, however, no objections to having an exonerated judge in one or the other chamber. With regard to the restitution agencies the picture was not so favorable. An exception is the Restitution Agency with General Jurisdiction, Wiesbaden, which had been established in accordance with Regulation No. 6 under MG Law No. 39. At present approximately 3,500 cases were before that agency, and altogether it would probably have to dispose of 3,600 to 3,700 petitions. The bulk of those cases (98-99%) fell, however, not under the Restitution Law since they were claims to property in Poland, Silesia, etc. in such cases the agency informed the claimants that their petition for one or another reason did not fall under the Restitution Law and that they would have to assert their rights otherwise. 50% of those cases were withdrawn, while the other 50% were dismissed. The Head of the Agency with Special Jurisdiction believed that by 1 February or 1 March 1950 he would have disposed of all cases.

Dr. Weissstein then stated that with regard to the ten restitution agencies in Hesse everything had been done on his part in order to increase their efficiency. This was evident also from the following statistics which had already been included in his letter to IRSB dated October 19, 1949. According to those figures, 250-300 cases had been disposed of monthly by all agencies between May and August; in September this number had increased to 500, in October to 600, in November to more than 700, and he assumed that for December, in spite of the Christmas holidays, it would increase to 800-900. Hesse had received more than 22,000 individual claims, of which 4,200 or approximately 20% had been disposed of to date. With a monthly disposition of approximately 750 claims, that is 9000 in a year, it would take two years to dispose of the remaining 18,000 claims.

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By TJ NARA Date 7/16/99

With regard to JRSO claims the picture was not quite so clear. For Hesse, 66,000 were registered. Should of this number actually only 19,000 cases remain, then he had no doubts at all that those could easily be disposed of within two years since JRSO cases could be disposed of much faster than individual cases for the following three reasons: First, restitution agencies do not have to collect all the pertinent material; second, JRSO attempts itself, and quite often successfully, to bring about amicable settlements, which need only to be recorded by the restitution agencies; third, the difficulty of submitting proof of heirship does not exist in cases of JRSO petitions. He believed, however, that the number of 19,000 JRSO petitions mentioned by Mr. Loewenthal was too optimistic. He could not believe that the 66,000 JRSO cases would shrink to 19,000.

Mr. Loewenthal replied that those figures originated with JRSO. JRSO anticipated that of the 160,000 petitions filed by it, only 55,000 would have to be forwarded to restitution agencies. The number of 18,000 JRSO petitions for Hesse had then been obtained on the basis of the rate of distribution of individual petitions to the various Laender.

At this point, however, Dr. Weissstein came to the big "but", namely that he had been informed by the Finance Ministry that 55 or 15% of the total of 377 positions assigned to the Land Central Office and its subordinate offices would have to be abolished as of April 1, 1950. While the reduction itself was quite detrimental, the fact that especially the well-paid positions, i.e. those of the Rueckerstattungsraete, were to be abolished was of the utmost importance. Should those 55 positions be abolished as of April 1, 1950, he considered it impossible to complete the program within two years. Further attempts on his part would be of no avail, the only remaining possibility being an intervention on the part of the Office of the High Commissioner. It must be insisted that the 55 positions be retained also for the next fiscal year.

Dr. Weissstein then called the attention of the meeting to the increasing number of indications of delays in restitution proceedings, e.g. many restitutors believe that their position might improve as time goes by. He mentioned in this connection the "Interessengemeinschaft der Rueckerstattungspflichtigen" (Association of Restitutors) which had been founded at Fuerth. Although its program sounded quite harmless, its activities would have to be watched. A few days ago, it had been stated in the "Frankfurter Rundschau" that an organization existed in the French Zone which would also like to put its hatchet to the roots of the restitution laws. The Federal Government was supposed to go to work and revise all restitution laws in the various zones. The willingness of the restitutors to conclude amicable settlements was already now adversely affected. They sensed their opportunity. A clarifying declaration of the High Commissioner was, therefore, absolutely necessary.

Dr. Weissstein finally talked about the agencies Eschwege, Fritzlar, and Marburg, the dissolution of which was requested by the "Rechnungshof" (Fiscal Office) as of April 1, 1950. With regard to Eschwege, the smallest agency, this would perhaps be possible. It had only 500 individual claims, of which 250 had already been disposed. The dissolution of the agencies Fritzlar and Marburg was impossible. There would be a considerable remainder which would have to be assigned to other agencies. It had been requested that the employees of the three agencies be given notice already, a fact which naturally would adversely affect their efficiency. Also here action by the High Commissioner was absolutely necessary in order to prevent the dissolution of the three agencies by April 1, 1950, but to keep them until April 1, 1951.

In reply to Mr. Loewenthal's question whether a letter addressed by the Property Division to the Land Central Office would not suffice to remove the difficulties, Dr. Weissstein said that he believed that this case calls for heavy artillery.

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Mr. Loewenthal mentioned in this connection that the reports of the Heads of Land Central Offices on the decreasing willingness of restitutors to conclude amicable settlements as well as the material regarding the "Interessengemeinschaft der Rueckerstattungspflichtigen" had been forwarded to higher authorities and that a decision would be made at that level what means were to be used to counteract these conditions.

To Mr. Laks' remark that in Dr. Weissstein's estimates JRSO cases had not been sufficiently considered and that a certain increase in the estimates of the workload of the agencies should be made to include JRSO cases, Dr. Weissstein replied that, in his opinion, this was not necessary since in due time a number of property control employees would be made available to work on JRSO cases.

Referring to the present figures available for Hesse, Mr. Miller stated that he felt that Dr. Weissstein's estimate was too optimistic.

Dr. Mayer stated that he was able to give a considerably more favorable picture for Wuerttemberg-Baden as compared to Dr. Weissstein's report for Land Hesse. The authorities in Wuerttemberg-Baden were of course also interested in the most expeditious execution of the Restitution Program and they would do everything to complete it in time, i.e. until the 31st of December 1951. In fact he could promise its completion by that date.

Conditions in Wuerttemberg-Baden were different from those in the other Laender insofar as restitution agencies were headed exclusively by judges, the so-called arbiters. This system had worked out very well; the arbiters had brought about an extraordinarily high number of amicable settlements. Of the 243 cases disposed of by arbiters during the month of October, 150 or 62% had been amicably settled. The chambers had adjudicated in October 18 cases, thereof 11 cases or 61% by amicable settlements. It followed that of all cases disposed of by arbiters and chambers during October 85% had been amicably settled. During the month of November, the arbiters had settled amicably 178 cases or 56% of a total of 319 dispositions. During the same period the chambers had settled amicably 10 cases or 36% of the total number of 28 adjudications. For the entire period, i.e. from November 10, 1947 to November 25, 1949, the picture was as follows: Total number of cases disposed of by the arbiters: 1,848; thereof 1,144 cases or 62% by amicable settlements. Total number of cases adjudicated by the chambers: 168; thereof 84 cases or 50% by amicable settlement. Thus of the total number of cases disposed of by arbiters and chambers 81% had been amicably settled.

On the basis of the above figures responsible authorities in Wuerttemberg-Baden believe that the main burden of restitution activities rests with the arbiters. The question of increasing the number of arbiters had been discussed, and substantially the following may be said on the subject: Prior to this meeting he has had a discussion with the senior and most experienced arbiter, Oberlandesgerichtsrat Dr. Koehler in Stuttgart. Postponements were not as much due to the question of personnel, but could often be attributed to developments of individual restitution cases. Not only restitutors but also restituttees attempt to postpone the settlement of cases. In the latter instance postponements are often due to the fact that monetary transfers are not possible. With respect to restitutors, the reasons for retarding settlements of cases are not as much their hope for changes in the provisions of the Law but rather their expectations for more favorable legal interpretations of the Law. In this connection the conversion rate of the original purchase prices at 10:1 was not acceptable to the majority of restitutors who hope for a change of the conversion rate to 5:1, a rate which is applied in connection with the General Claims Law. Arbiters had been successfully concluding amicable settlements by using the latter rate. It may therefore be concluded that a doubling of the personnel does not necessarily mean that only half of the time will be required for completion of the program.

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The chambers in Wuerttemberg-Baden may be considered current as far as their work under the Law is concerned. There are at present on hand at the chambers 46 cases not ready for adjudication. Those which are available for adjudication are being disposed of without delay.

Considerable difficulties are experienced with respect to the housing question. Housing conditions in Stuttgart, Karlsruhe and Mannheim were extremely bad. In Ulm, the rebuilding of two rooms was absolutely necessary. The arbiters in the Stuttgart Agency shared their room with two administrative employees. Despite a considerable number of visitors frequenting that office, hearings must be held in the same rooms. These conditions cannot be changed even if necessary funds were available. In the same building, for example, two public prosecutors had only one room although each of them must hold individual hearings. It certainly is surprising that any progress at all was made under these circumstances. Housing conditions for the other members of the court are even worse than those for the arbiters.

Dr. Endres mentioned that procedures may be expedited by clarification of basic issues. In this connection reference was made to the meeting in Stuttgart, at which in addition to representatives of the American Zone the representatives for Northrhine-Westphalia and for the French Zone took part, and where it was decided that decisions and opinions of the respective Ministries of Justice, which until now were published by the individual Laender, will now be published for the entire US Zone by the weekly publication "Neue Juristische Wochenschrift".

In reply to certain inquiries made by IRSB Dr. Mayer then read a statement the contents of which had partly been referred to in his previous discussions.

With respect to personnel questions he stated that as of April 1, 1950, four assessors will be assigned to the chambers. As of the date of his report there were 3 arbiters in Stuttgart, 2 arbiters each in Karlsruhe and Ulm, and 3 in Mannheim; a fourth arbiter is at present being trained for Mannheim. The hiring of one additional arbiter for Mannheim and one for Karlsruhe is under consideration. In November, a second arbiter has been employed for Karlsruhe.

Mr. Loewenthal's question whether he believed that the program could be completed by 31 December 1951 with the aforementioned personnel was answered by Dr. Mayer with "yes".

With regard to the data on JRSO claims, as furnished in his written submission, Dr. Mayer explained that the rate of 10% for claims to be forwarded to arbiters from those at present held in suspense, had been obtained from Dr. Schoenfeld, the JRSO representative for Wuerttemberg-Baden. Included therein were 3,000 claims against pawn-shops, which in Dr. Schoenfeld's opinion and also in his own opinion should be disposed of in bulk. Mr. Loewenthal mentioned that he understood that one such case was at present pending before the Board of Review for decision.

In his estimates of the time required by arbiters for the disposition of all cases before them, Dr. Mayer had assumed that the dispositions would increase by 25% in comparison to the month of November. On the basis of a 75% increase, as suggested by IRSB, the times required by the individual agencies would be as follows:

|           |           |           |            |
|-----------|-----------|-----------|------------|
| Stuttgart | 35 months | Karlsruhe | 45 months  |
| Ulm       | 15 months | Mannheim  | 60 months. |

Dr. Mayer then promised again that the arbiters would complete their task until December 31, 1951.

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Dr. Mueller began with some statements of a more general nature in which he discussed the difficulties connected with the execution of Law 59. He then talked about restitution activities in Land Bremen. He stated that, compared to the other Laender, restitution activities in Bremen showed more progress. This was due primarily to the smallness of the Land as a result of which certain organizational problems did not exist. He nevertheless felt sceptical about the date of December 31, 1951. Even while doubling the personnel one must consider the comparatively long time necessary to get acquainted with this difficult matter. He agreed with the statements of the gentlemen who had spoken before him, that a letter from the Office of the High Commissioner to the Minister Presidents of the Laender in which it is emphasized that for political as well as for economic reasons it was necessary to expeditiously complete the Restitution Program would be advisable. He finally remarked that with certain reservations he believed to be able to comply with the date of December 31, 1951. He counted on the employment of two additional persons and did not anticipate any financial difficulties in that respect.

After lunch, Mr. Loewenthal gave the following brief analysis of restitution progress by comparing the number of cases disposed of in the various Laender during the month of November with the number of monthly dispositions required in the future if the program is to be completed by December 31, 1951, as had been promised by the Heads of Land Central Offices:

Bavaria: disposed of in November: 456 cases  
required monthly dispositions: 1,750 cases (JRSO included)

Hesse: disposed of in November: 479 cases  
required monthly dispositions: 1,800 cases (JRSO included)

Wuerttemberg-Baden: disposed of in November: 319 cases  
required monthly dispositions: 1,250 cases (JRSO included)

Bremen: disposed of in November: 52 cases  
required monthly dispositions: 125 (JRSO included)

Mr. Loewenthal then mentioned the discussions held between the Property Division and JRSO which resulted in the understanding that it would be desirable that JRSO petitions be handled separately in order to expedite their disposition. The decision, however, as to the application of such measures rested with the restitution authorities. The same applied to a special procedure for the recording of amicable settlements brought about by JRSO.

Dr. Endres mentioned that in Bavaria JRSO had already prepared hundreds of amicable settlements; on the whole JRSO accomplished a considerable amount of preparatory work. They distinguished three groups. Cases in group I are those which need only to be recorded, JRSO having already concluded amicable settlements. Group II consists of cases requiring minor adjusting before amicable settlements could be reached and recorded. Cases in group III will not be handled until April 1, 1950. There are within the latter group cases which will probably require more work than those in groups I and II. Eventually group III will again be divided into three groups.

Mr. Loewenthal said that his office had received from JRSO a copy of the Bavarian instructions on the separate handling of JRSO petitions with the remark that this practice fully complied with the wishes of JRSO. For that reason he would like to ask Dr. Endres to send a copy of these instructions to the other Laender.

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Dr. Weissstein mentioned that in discussions with Dr. Kahn, Head of the JRSO office in Hesse, the following procedure had been agreed upon in order to ensure the expeditious handling of JRSO petitions:

1. The agencies inform the restitutor by a form letter stating that a petition had been received from JRSO involving his property and that JRSO will approach him for the purpose of reaching an amicable settlement. The letter also indicates that formal service will be made only after the attempt by JRSO to reach an amicable settlement had proven negative.

Dr. Weissstein explained that the letter was written primarily for psychological reasons in order to induce an increased willingness on the part of the restitutor to conclude amicable settlements.

2. Should the negotiations of JRSO be successful, provisions have been made for the prompt recording of such amicable settlements. At his suggestion all of the ten agencies had agreed to introduce so-called court-days once or twice a month during which JRSO can meet with the restitutors. Furthermore, JRSO cases are recorded in a separate register of amicable settlements.

Dr. Weissstein anticipated a very considerable increase in dispositions as a result of this system. JRSO has already submitted about 30 amicable settlements.

Dr. Endres stated that in Bavaria 88 amicable settlements had already been reached by JRSO.

Dr. Mayer stated that he considered the assignment of special arbiters for JRSO cases only advisable in the big agencies (Stuttgart and Mannheim). For Ulm and Karlsruhe it was not recommendable since there an arbiter would not be fully occupied with JRSO cases. In Stuttgart JRSO cases would be handled by Oberlandesgerichtsrat Dr. Koehler. To-day the first JRSO amicable settlements would be recorded. Nothing definite can be said as yet with regard to further developments.

Mr. Loewenthal warned in this connection that the Agency in Karlsruhe, weak as it is, might weaken even more unless it handled JRSO cases separately.

Dr. Mueller stated that JRSO paid little attention to Bremen and that up to date only two discussions had taken place with JRSO. Bremen is being attended to by the JRSO office in Kassel. JRSO intended to contact restitutors in Bremen in a manner similar to that in Hesse. Amicable settlements would be recorded by the agency, for which special days had been provided. Dr. Mueller said that he had asked Dr. Loebenstein, JRSO representative in Kassel, to appoint a representative for Bremen. This had been done, and Mr. Vollmann was in steady contact with them. Of the 2,000 JRSO cases probably 500 would remain, which could be easily disposed of. If possible, he would like to have one man work on JRSO petitions. This would be a good argument in asking the Finance Ministry for an increase in personnel.

Mr. Schweig then reported on restitution in Berlin. He remarked that the legal basis in Berlin was not Law No. 59, but the Berlin Kommandatura Order (49) 180 of 26 July 1949. This Kommandatura Order was based substantially on the Restitution Law in the British Zone. Prior to the Kommandatura Order an instruction as to the filing of claims had been issued which was more or less the same as General Order No. 10 of the British Zone. The first claims had been received at the end of March 1949. The Kommandatura Order of 26 July had led to the establishment of restitution authorities. With the well-known Berlin efficiency this had been accomplished in a short time. Already after three months, on 11 November, they had been in operation. The organization

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of the Berlin restitution authorities was similar to that of restitution authorities in the British Zone. There were first of all the agencies. In Berlin one agency had been established with five departments, two departments for the US Sector, two for the British Sector, and one for the French Sector. The agencies are staffed with three legal experts each. For the time being two chambers were contemplated. The chambers formed part of the Landgericht of the Western Sectors of Berlin. Appeals from the chambers may be taken to a senate of the Kammergericht and, as far as the US Sector was concerned, to the Board of Review. Unlike its status in the US Zone, JRSO was recognized in Berlin only as trustee, that meant that for the time being it was only entitled to file claims leaving the question of ownership undecided. For the present JRSO was authorized only in the US Sector, the authorization for the British and the French sectors had not as yet been granted. The procedure of forwarding claims to the agencies was different from that in the US Zone. Because claims were frequently inadequate in form and contents, they were not forwarded to the agencies in their original form. All claims were preliminarily screened and substantiated and then transcribed to the proper form. Furthermore only so many claims were forwarded to agencies as could be handled by them during a certain period. At present 200 claims were forwarded to restitution agencies per week. The total number of claims forwarded to date was 2,000. Of those approximately 1,000 would be disposed of by the end of December, a number thereof by amicable settlements. By the end of the current month 900 decisions granting petitions were anticipated. This was due to the fact that they had first forwarded a great number of cases where confiscation by the Reich without indemnification was involved. To date they had received approximately 20,000 claims. Beginning with 1 January, 2,000 claims would be forwarded to restitution agencies per month. No agreement existed as yet as to the functions of restitution agencies in Berlin. There were doubts whether the actual work should not be transferred to the chambers, so that the agencies would actually function as recording offices only.

Referring to Mr. Schweig's discussion of the handling of cases in Berlin, Dr. Mueller asked whether the US authorities wanted the restitution authorities to concentrate their efforts first on the disposition of JRSO petitions.

Mr. Loewenthal replied that the agencies should equally concentrate on JRSO and individual petitions.

Regarding the subject "Changes in the Reporting System", Mr. Loewenthal first asked whether the new form MG/FD/11b/F was clear to the participants and whether they approved of it. The question was answered in the affirmative, and no explanations of the new form were requested.

Mr. Loewenthal then referred to the report forms placed before the members of the meeting and stated as follows with regard to their meaning: It is the intention of the Property Division to introduce statistics and reports with regard to the type and the value of properties restituted as well as the nationality of the restitutees. The importance of this is clear; the public wants to be informed of the practical results of the Restitution Program. In the opinion of his office, the forms presented here are best suited for the purpose of compiling such statistics. He could, however, prefer it if the German authorities, who will have to compile those reports, would state their opinion and propose a form which would best suit the purpose.

During the ensuing discussion certain difficulties in the compilation of these new reports were pointed out, e.g. what values are to be given, whether it was possible to determine the nationality of the restitutees or whether their residence should be reported, the number of items to be listed in the Final Report submitted by the agencies and the courts, and the question of including the cases disposed of prior to the introduction of the new reports.

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Considering the additional work which the new reports system would create for the restitution authorities, Mr. Loewenthal mentioned that a considerable reduction in their work would result from the elimination of the action reports under the Key Card with respect to JRSO petitions. In a discussion with JRSO it was decided to limit the action reports on JRSO petitions to item 15 of the Key Card, "Number of Cases", in addition to the Final Report which is under consideration now. The adding of Final Reports to the copies of JRSO petitions which are kept at the Central Filing Agency is deemed sufficient to control the disposition of JRSO petitions. In view, however, of the difficulties mentioned previously, Mr. Loewenthal suggested that the Heads of Land Central Offices jointly submit a proposal for the new reports. This suggestion was accepted by all. Mr. Miller again emphasized that the main purpose of these reports is to eventually give both the American and the German public information of the final results of restitution. It should not be forgotten, however, that the principal aim of Law 59 is restitution and not reporting.

Dr. Weissstein stated that the restitution agencies would be greatly relieved in their work if items 19, 20, 21, 23, 24, 28, and 30 of the Key Card were eliminated. Mr. Loewenthal asked if this was also the opinion of the other gentlemen. Mr. Zimmermann then presented a Key Card on which these items had already been crossed off with a view of eliminating them. Mr. Loewenthal pointed out, however, that it is advisable to wait with the reduction of the Key Card until the Central Filing Agency has completed the setting up of the Action Record Card System, a task in which it is at present engaged. An attempt will, nevertheless, be made to reduce the number of items if possible. Dr. Mayer suggested that the same items be eliminated for the chambers.

Mr. Loewenthal then discussed some important points with regard to the Central Filing Agency. By now all individual petitions had been forwarded by the Central Filing Agency. JRSO had been notified by the Property Division accordingly. JRSO had requested that the Land Central Offices be also informed of that fact so that it would not be necessary any longer for JRSO to submit documentary evidence in the individual cases.

Furthermore the following difficulty existed: In numerous cases restitution agencies had written to claimants in reply to their inquiries that their petitions had not as yet been received. The reason therefor probably was that because of the enormous workload it had not been possible as yet to register all petitions. Mr. Loewenthal requested the speedy registration of the petitions received in order to avoid unnecessary complaints to the Property Division. He requested that appropriate instructions be issued by the Heads of Land Central Offices to restitution agencies and that a copy of such instructions be submitted to his office.

Mr. Loewenthal then turned to the question of the recording of amicable settlements. He pointed out that by all means it must be prevented that amicable settlements are recorded between parties who do not fall under Law 59. Dr. Endres replied that pursuant to the Law the obligation existed to ascertain the truth of the alleged facts ex officio. It had also been repeatedly pointed out to restitution authorities that it was their duty to review the cases. Dr. Endres mentioned that he just had discussed a case with Dr. Weissstein where an attempt had been made to misuse the Law. Mr. Loewenthal said that the Property Division had suggested that, in view of the fact that such cases had occurred in the British Zone, Land Central Offices issue written instructions to the Restitution Agencies warning them about the danger involved. Mr. Leber confirmed that the duty to verify the facts of a case existed ex officio, and that the Laender would be held liable for eventual damages.

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Mr. Loewenthal then talked about the Central Collecting Point in Wiesbaden. At present it was in charge of 200,000 art objects which were considered as falling under Law 59 or the restitution laws in the other zones. A way must be found to dispose of these art objects within a reasonable time.

In the case of petitions involving art objects whose location is not given the restitution agencies should inquire with the Central Collecting Point. This would help to dispose of some items. However, it is desired to establish a more general procedure which would expedite the disposition of the art objects. Mr. Miller suggested that Land Central Offices submit to the Central Collecting Point a list of art objects for which claims have been received but whose whereabouts are unknown. It was pointed out, however, that the preparation of such lists would be too time-consuming. Dr. Weissstein stated that in Hesse the matter could only be handled in the manner suggested earlier, namely by inquiring with the Central Collecting Point in each individual case. He mentioned in this connection the regulation providing for the release of art objects by the Central Collecting Point upon the submission of a copy of the restitution authorities' decision granting the petition. As a means of further expediting the handling of cases involving art objects Dr. Weissstein suggested the issuing of a catalogue by the Central Collecting Point. Mr. Miller pointed out that the Central Collecting Point is extremely burdened with work. He nevertheless agreed that the issuing of a catalogue was desirable inasmuch as it might also be used by the British and French restitution authorities.

Mr. Dehn, speaking for the Central Filing Agency, stated that his office was burdened with unnecessary correspondence not only because the restitution agencies often replied to inquirers that they had not received the petitions, but also because restitutees are frequently referred to the Central Filing Agency for information. Mr. Dehn emphasized that it was not the function of the Central Filing Agency to give such information. He then asked that in all correspondence to the Central Filing Agency its file number be clearly indicated. Where a file number was not available he asked that the first name as well as the family name of the restitutee be mentioned since often family names are the same. Also important is the correct spelling of names. Whenever additional information is requested by the restitution authorities it should clearly be indicated that such information is to be submitted directly to the respective restitution authority. In many cases such additional information and answers to inquiries were received by the Central Filing Agency.

With regard to JRSO petitions, the Central Filing Agency had received a list of the claims forwarded to restitution agencies from the Land Central Office in Wiesbaden as well as from the individual agencies. During a telephone conversation with the latter it was learned that they had wanted to notify the Central Filing Agency of their file numbers. The registration as requested by Mr. Loewenthal did not provide for the file number of the Land Central Office. Bavaria furnished only one list indicating the file number of the Land Central Office as well as the file numbers of the restitution agencies. This procedure is, of course, acceptable.

Mr. Zimmermann spoke about the Action Record Card System. He said that the system was now established and that it contained approximately 60,000 cards. In the meantime 150,000 action reports have been received. Experience has shown that some items of the Key Card could be omitted. Difficulties existed with regard to the reporting of breakdowns, item 15, since it often was not evident whether five cases or one main case plus four sub-cases were meant. Dr. Mayer said that if five cases were reported under item 15, this

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would mean in Wuerzburg-Baden that there were one case and four sub-cases.

Mr. Zimmermann requested that on the action reports under item 15 the names of the restitutees and the restitutors be reported, since 10% of the action reports received contained incorrect file numbers. Another mistake was that the chambers, when reporting receipt of a case under item 35, gave only their docket number from which it was not evident which petition was involved.

Dr. Mayer said that in Wuerzburg-Baden first the file number of the agency was mentioned to which later the docket number of the chamber was added.

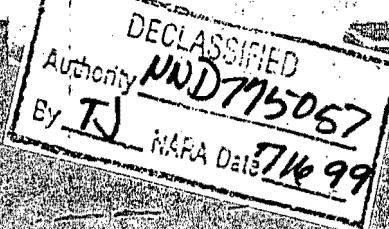
Mr. Zimmermann then stated that 4,000 receipts for individual petitions were still outstanding from Bavaria. Mr. Loewenthal suggested that Land Central Offices be notified of the missing numbers.

Mr. Schlenker doubted that 10% of the action reports contained incorrect file numbers. Mr. Zimmermann replied that often the current number was entered instead of the file number. Mr. Loewenthal asked whether the Central Filing Agency should return the incorrect action reports. Mr. Zimmermann stated that so far the Central Filing Agency had returned them only in exceptionally bad cases. He suggested the preparation of lists in cases where it could not be determined to which petitions the action reports related, and to submit those lists to the Land Central Offices. Mr. Leber asked whether actually so much additional work would be involved in indicating the names of the restitutee and the restitutor, as proposed by Mr. Zimmermann. As an interim solution Mr. Loewenthal suggested that the attention of restitution authorities be again called to the fact that the reports to the Central Filing Agency had to be made as correct as possible.

It was agreed upon that the Heads of Land Central Offices would submit their statements in answer to the questions posed by IRSB, as well as copies of the instructions issued by them to restitution authorities as a result of this conference.

In a few closing remarks Mr. Miller expressed his satisfaction with the meeting.

In conclusion Mr. Loewenthal thanked the participants for their excellent cooperation during the meeting. In anticipation of similar future meetings, he stated that suggestions of topics for discussions would always be welcome.



R.G. 260  
Property Division  
Box 4

Conferences-Meetings-  
Agenda-File

(File 17)

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

Property Division  
Property Control & External Assets Branch  
APO 633  
Wiesbaden, Germany

Report

on the Administration of Military Government Law No 59

"Restitution of Identifiable Property" for the 10 Month Period

Beginning 10 November 1947 until 30 August 1948

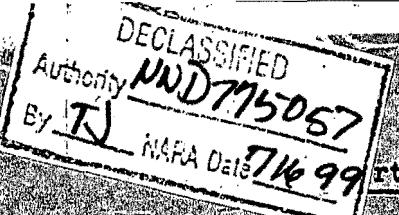
by

W. J. Dickman

Deputy Chief

Property Control & External Assets Branch

Property Division, OMGUS, Wiesbaden



on the Administration of Military Government Law No 59 "Restitution of Identifiable Property" for the 10 Month Period, beginning 10 November 1947 (Date of Enactment of the Law) until 30 August 1948

1. On 10 November 1947 the Office of Military Government for Germany (US) announced the promulgation of Military Government Law No 59 "Restitution of Identifiable Property". This Law provides for the restitution of identifiable property which was taken from its rightful owners by the Nazis during the period from 30 January 1933 to 8 May 1945 through transaction under duress arising from discrimination because of race, religion, nationality, ideology and political opposition to National Socialism.

2. Simultaneously with the enactment of the Law Regulation No 1 and Regulation No 2 were promulgated. Regulation No 1 deals with the establishment of the Central Filing Agency and the manner of filing claims for restitution. The Central Filing Agency at Bad Nauheim, Germany, started its operation on 10 November 1947. It was vested by this regulation with all powers and responsibilities which it has under the provisions of Military Government Law No 59. Any eligible claimant under the provisions of the Law must file a claim for restitution with this Agency not later than 31 December 1948. Claimants who fail to file a claim in time and with the agency indicated will lose their claims. The regulation sets forth in detail the manner of filing claims for restitution and, in an appendix, gives an outline of information requested by Military Government in petitions for restitution to be filed under the provisions of the Law.

3. On 10 November 1947 also Regulation No 2 under Military Government Law No 59 was enacted dealing with the filing of reports as required by the provisions of Articles 73 and 74 of the Law. In order to facilitate the location of restitutable property these provisions impose a duty upon persons in Germany who have or have had in their possession, after its wrongful taking, to report any property of a value of over 1,000 RM (now DM) which falls within the scope of the Law. This report had to be filed with the Central Filing Agency at Bad Nauheim on or before 15 May 1948.

4. On 15 May 1948 Amendment No 1 to Military Government Law No 59 extended the time limit for filing reports required by the provisions of the

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Restitution Law from 15 May August 1948. No further extension of the time limit has either been requested nor granted so that the time limit for the filing of such reports has run out on 15 August 1948.

Up to 25 August 1948 the Central Filing Agency has received 3,187 complete and 3,486 incomplete petitions, altogether 6,673. It has received 30,995 complete and 7,247 incomplete reports. In addition to these petitions and reports it has handled 26,737 pieces of miscellaneous correspondence. The CEA is staffed with two Americans and has a TO of 60 Germans. Owing to the large amount of the reports that came in before the expiration of the deadline (15 August 1948) and the painstaking job of filing, checking and cross-checking every piece of incoming and outgoing mail a very considerable backlog, particularly of reports, have accumulated which, however, will be processed at an accelerated rate so that backlog of reports will have disappeared on 15 September. The Central Filing Agency will then be able to catch up with the processing procedure and the Restitution Agencies will receive an increasingly steady flow of petitions.

5. On 23 June 1948 Regulation No 3 under Military Government Law No 59 was enacted. This Regulation provides the procedure under which non-profit or charitable organizations desiring to be appointed as a successor organization under Military Government Law No 59 may apply in writing to the Office of Military Government for Germany (US) for such appointment. The regulation sets forth the proper requirements for any such application and states in particular that such organization must be representative of the entire group or class which it is to be authorized to represent.

6. Regulation No 3 also contained the appointment of the successor organization for Jewish property. It appointed the Jewish Restitution Successor Organization, a charitable organization, incorporated under the Laws of the State of New York, United States of America (hereinafter referred to as JRSO) as successor organization authorized to claim Jewish property pursuant to the terms of Articles 8, 9, 10 and 11 of Military Government Law No 59. It defines Jewish property as the property, rights and interests of Jewish individuals and of Jewish organizations. A preliminary authorization for the Jewish Restitution Successor Organization to start its operation beginning 3 August 1948 and valid until 1 September 1948 was issued, permitting the organization to make the necessary arrangements for hiring personnel.

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By TJ

NARA Date 7/16/99

procuring office space, arranging for legal support and contact German and Military Governmental agencies with a view to developing procedures for its operation. This preliminary authorization was superseded by Authorization No 1, issued by Military Government on 15 August 1948 pursuant to Article III, paragraphs 3 and 4 of the appointment of the JRSO under Regulation No 3.

Authorization No 1 authorizes the staff of the JRSO to act for and on behalf of the organization within the United States Zone of Occupation of Germany and within the terms of the appointment, pursuant to Regulation No 3 and the conditions set forth in Authorization No 1. It orders the Central Filing Agency at Bad Nauheim to make available to the JRSO from its files and records all reports filed pursuant to Article 73 of Military Government Law No 59 and all basic information with respect to any claim filed pursuant to Article 56 of the Law. It further authorizes the JRSO and its representatives to examine and extract information from German and Military Government sources, specifically from Military Government and German files and records existing in the United States Zone of Occupation of Germany, within the limits set forth in Authorization No 1. It also lists the conditions under which the Authorization has been issued.

7. Based on the Authorizations described above (para 6) the Jewish Restitution Successor Organization has begun to exercise the functions assigned to successor organizations under the provisions of Articles 8 to 13 of Military Government Law No 59. It has established its headquarters at Nuernberg and opened up branch offices in some of the larger cities of the US Zone of Occupation in which Jewish property that was subject to confiscation is located.

8. Under the provisions of Article 92, para 2, of the Law the minister Presidents of each state of the four Laender of the US Zone of Occupation or any ministers designated by them shall issue the legal and administrative regulations necessary for the implementation of the Law, unless otherwise provided by Military Government. Following this authorization, implementing regulations were passed in the four Laender concerning the establishment of Restitution agencies. It is the main function of these agencies to reach amicable settlements and to record such settlements. If an amicable settlement cannot be reached, in whole or in part, or if the measures to be taken are not within the power of the Restitution Agency, they shall refer the cases

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to the Restitution Court having jurisdiction over the  
Restitution Agency.

9. On the basis of legislation passed in the four Laender of the US  
Zone of Occupation, Restitution Agencies have been established to exercise  
the functions assigned to them under the provisions of Military Government  
Law No 59. The organization of these Restitution Agencies is not uniform.  
Each Land has availed itself of the power to implement the Law by setting up  
Restitution Agencies of its own:

a. Bremen: On 23 January 1948 the President of the Bremen Senate,  
in accordance with Article 92 of Military Government Law No 59, appointed the  
Office for Property Control and Restitution in the Land Bremen (Landesamt  
fuer Vermoegenskontrolle) as the Restitution Agency. Bremen thereby became  
the first Land to establish an Restitution Agency.

b. Hesse: On 25 January 1948 Land Hesse passed the first Hessian  
regulation implementing Article 92, para 1, of Military Government Law No 59  
by establishing 10 Restitution Agencies (Aemter fuer Vermoegenskontrolle und  
Wiedergutmachung) at Darmstadt, Frankfurt, Fulda, Kassel, Offenbach, Esch-  
wege, Fritzlar, Giessen, Marburg and Wiesbaden. The heads of the Restitution  
Agencies are independent with regard to the measure for which they are com-  
petent pursuant to the Restitution Law and are subject to the Law only. Other-  
wise the Restitution Agencies are under the supervision of the Land Office  
for Property Control and Restitution.

c. Bavaria: On 15 April 1948 the First Ordinance of the Bavarian  
Minister President implementing Article 92 of Military Government Law No 59  
was passed, establishing the Branch Offices of the Land Office for Property  
Control and Restitution (Zweigstellen des Landesamts fuer Vermoegensverwal-  
tung und Wiedergutmachung) in Munich, Augsburg, Regensburg, Ansbach, and  
Wuerzburg as Restitution Agencies. The Restitution Agencies are administra-  
tively sub-ordinated to the President of the Bavarian Land Office for Prop-  
erty Control and Restitution. They are under the functional supervision of  
the Restitution Council (Wiedergutmachungsrat), composed of one representative  
each, of the Ministry of Justice, of the Ministry of Finance, and of the State  
Commissioner for Racial, Religious and Political Persecutees. The functional  
supervision is limited to the establishing of general policies regarding the

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By TJ NARA Date 7/16/99

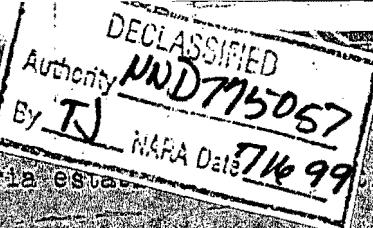
Proceeding before the Restitution Agency; the issuance of instructions regarding the substantive treatments of the individual restitution case is not admissible.

d. In Wuerrttemberg/Baden Ordinance No 162 establishing Restitution Agencies had been passed prior to the enactment of Military Government Law No 59; it was not in accordance with some of its provisions. After Military Government Law No 59 was enacted this Ordinance No 162 was changed by the Ordinance No 1002 of the Land Government of Wuerttemberg/Baden of 18 March 1948. This Ordinance established four Arbitrators (Schlichter) at the local Courts of Stuttgart, Ulm, Karlsruhe and Mannheim as Restitution Agencies under Military Government Law No 59. Department VI for Restitution of the Wuerttemberg/Baden Minister of Justice was made the administrative supervising Agency for the Land of Wuerttemberg/Baden.

10. The Land legislation relating to the establishment of Restitution Agencies was, prior to its enactment, discussed at Laender level by the Property Control experts of the four Laender in meetings of the so-called Special Property Committee of the Laenderrat. Twenty Restitution Agencies in the four Laender of the US Area of Control as described under para 9, sub-paras a. to d., are now in operation. They are receiving and considering claims filed with the Central Filing Agency.

11. The adjudication of claims for restitution is a matter for the German Courts established pursuant to the pertinent Provisions of Military Government Law No 59. The courts of first instances are the Restitution Chambers of the District Courts having jurisdiction over the Restitution Agencies (Article 63 of Military Government Law No 59). Appeals may be taken from decisions of the Civil Chamber to the Civil Division of the Court of Appeals (Oberlandesgericht). Such appeals may be based only on the ground that the decision violated the Law (Article 68, para 2, of Military Government Law No 59). The establishment of these courts is left to implementing Regulations to be passed by the Laender Governments:

a. Wuerttemberg/Baden on 13 April 1948, passed Ordinance No 1004 establishing the Restitution Chambers at the Landgerichte at Stuttgart, Ulm, Karlsruhe and Mannheim, one Restitution Division at the Oberlandesgericht in Stuttgart and one Restitution Division at the detached seat of the Oberlandesgericht in Karlsruhe.



b. Bavaria established Restitution Chambers at the seat of the five  
Bavarian Landgerichte at Munich, Augsburg, Regensburg, Nuernberg, and Wuerzburg and conferred jurisdiction to try appeals taken from decisions of these  
Restitution Chambers to the Civil Division of the Oberlandesgericht at Munich.

c. Hesse, on 7 January 1948, passed the third Hessian carrying-out  
Ordinance under Military Government Law No 59. It established Restitution  
Chambers with the District Courts in Frankfurt, Giessen and Kassel and one  
Civil Senate of the Oberlandesgericht in Frankfurt.

d. Bremen has appointed the President of the Restitution Chamber  
and one of its members. The appointment of the second member and of the Appeal  
Court will follow shortly.

12. Article 69 of Military Government Law No 59 provides for the establishment of a Board of Review to have the power to review any decision or any  
claim for restitution under this Law and to take whatever action is deemed  
necessary with respect thereto. Regulation No 4, issued on 2 August 1948,  
provides for the appointment and composition of this Board, its jurisdiction  
and procedure. The Board, consisting of 4 judges, will have its principal  
seat at Nuernberg. The judges will be appointed by the Military Governor.

Any party aggrieved by a decision of the Civil Division of the  
Court of Appeals (Oberlandesgericht) may file with the Board a petition for  
review of that decision based only on the ground that the decision violates  
the Law.

Any party aggrieved by a decision of the Restitution Chamber may file  
with the Board a petition for review of the decision of the Restitution Chamber  
upon the following questions only:

- a. Whether the findings of fact are supported by substantial evidence;
- b. Whether there have been abuse of discretion by the Chamber;
- c. Whether prejudice on the part of the Chamber is indicated.

The Board has jurisdiction to enter judgment affirming, modifying,  
or revising, in whole or in part, the decision reviewed and to order execution  
thereof, or in its discretion, remand the case to the Civil Division of the  
Court of Appeals which had previously heard the case.

13. With the establishment of this Military Government Board of Review  
the last important act of legislation necessary for the administration of

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By TJ NAFI Date 7/16/99

Military Government

Final disposition of restitution

cases was done. The Laenderrat was requested in some instances to issue imple-

menting regulations as requested by Military Government. The following is

quoted from para 1 of AG letter, dated 18 August 1948, AG 014.1 (LD):

"Pursuant to Military Government Proclamation Nos 2 and 4, Military Government directed the Stuttgart Laenderrat to draft, by 15 January 1948, a regulation implementing Article 30, paragraph 3, and Article 32, para- graph 2, last sentence, of Military Government Law No 59, 'Restitution of Identifiable Property'. The Laenderrat thought that the requested regulation could not be issued without considerable delay due to the fact that suggestions from German finance and economic authorities and other interested groups were still outstanding. Thereupon, the Laenderrat was directed by Military Government to issue a regulation providing that, until general provisions on the usual rate of profits are issued, this rate shall be determined by the Restitution Chambers in each individual case where claimant claims this privilege. The Laenderrat proposed a regulation and requested Military Government's approval. The proposed regulation was acceptable to Military Government. But the Laenderrat is no longer active and the Regional Government Coordinating Office has been closed by order of the Military Governor. However, the issuance of the regulation implementing Article 30, paragraph 3, and Article 32, paragraph 2, last sentence, is necessary for the functioning of Military Government Law No 59 and, consequently, urgent."

14. Therefore, the Directors of the respective Land Offices of Military Government were requested by AG Letter of 18 August 1948, AG 014.1 (LD), to direct the respective Minister Presidents (in Bremen the President of the Senate), to enact and promulgate by decree pursuant to Military Government Proclamations Nos 2 and 4 a regulation providing for the rates of profit for property in the restitution procedure, thereby implementing Articles 30, paragraph 3, and 32, paragraph 2, fifth sentence, of Military Government Law No 59. According to this direction the Restitution Authorities shall, in each individual case in which the claimant availed himself of the right designated in Articles 30 and 32, determine the rate of profits by giving due consideration to all circumstances pertaining to an individual case.

15. It was the purpose of Military Government Law No 59 merely to establish the organization for the settlement and adjudication of restitu- tion cases and to supply the substantive and procedural provisions necessary for its administration, while the administration itself (except for the filing procedure for the Central Filing Agency and the reviewing procedure before the Military Government Board of Review) should be left exclusively to the German Restitution Authorities established by the Law, including the Restitution Courts.

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Authority NND75057  
By TJ NARA Date 7/16/99

16. After the organization of the Central Filing Agency, putting into effect of Military

Government Law No. 59 has been established and the flow of cases from the Central Filing Agency to the Restitution Agencies has begun, there still remains a number of important problems to be tackled. The answer to these problems requires policy decisions by Military Government. These problems are herewith outlined:

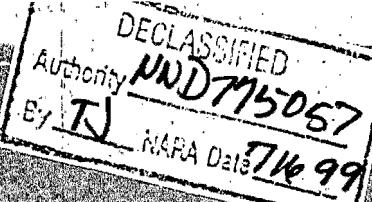
a. Appointment of Successor Organizations

So far only the Jewish Restitution Successor Organization has been appointed by Military Government. Other applications for appointment are pending in this office and it can be expected that more such applications will follow. Under Paragraph 2 of Regulation No. 3 an organization applying for appointment as successor organization must be representative of the entire group or class which it seeks authorization to represent. The overall policy as to when the applying organization qualifies for appointment has not yet been established. It is recommended that appointments of successor organizations should be on a Laender-wide basis in order to avoid the appointment of too numerous a number of such organizations, the supervision of which would unduly burden the activities of the Property Control and External Assets Branch. Only the following groups or classes should be considered as qualified for appointment as successor organizations:

- (1) Large religious groups, e.g., Jews, Catholics, Protestants, Quakers, Freemasons, Christian Science People, Jehovah's Witnesses, etc.;
- (2) Recognized successors to Political parties.
- (3) Large organizations, such as zone-wide athletic organizations, zone-wide professional organizations, e.g., medical associations, bar associations, etc.

b. Supervision of Successor Organizations

With the appointment of the Jewish Restitution Successor organization and expected additional appointments the Property Control and External Assets Branch will have to exercise supervisory functions over the Restitution Agencies to the extent to which such supervision is provided for in Regulation No. 3, JRSO Authorization No. 1 of 18 August 1948, and future authorizations of other successor organizations.



c. Evaluation of Reports under Articles 73 and 74 of the Law.

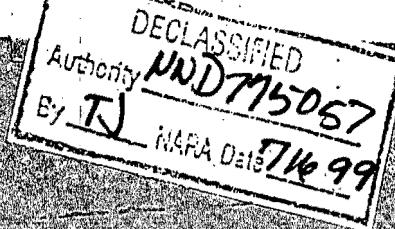
A great number of reports filed under the provisions of Articles 73 and 74 of the Law will have to be evaluated, at least to the extent whether there is evidence that the reports are incomplete. In cases where it will be brought to the attention of this office that, in violation of the penalty provision of the Law, no reports have been filed at all, criminal prosecution will have to be instituted. The authority to be charged with the preliminary investigation of such violations and of prosecuting violators will have to be established and policy for their prosecution will have to be laid down. It might seem advisable to charge German prosecuting authorities and German courts with the carrying out of this program under the supervision of Military Government.

d. Restitution in Berlin

Military Government Law No 59 does not apply in Berlin. In view of the fact that a very substantial part of all duress property is located in Berlin, this situation seems to be most unsatisfactory. This Division has worked out a staff study recommending the taking effect of the provisions of Military Government Law No 59 in the US Sector of Berlin. This program should be followed up with a view to achieving the taking effect of Military Government Law No 59, at least in the US Sector.

e. Coordination with the other Occupying Powers in the Restitution Program

The restitution in the British Zone is incomplete. General Order No 10 of 20 October 1947 provides only for the filing of petitions and the filing of reports but does not provide a procedure for amicable settlement or adjudication of petitions for claims to restitution. The French restitution program is embodied in Ordinance No 120 of 10 November 1947. In view of the policy of the respective governments of the three Laender to make the three Western Zones a single unit for economic and administrative purposes, the task of coordinating the program of restitution in the three zones remains still to be carried out. It would seem an ideal solution if ways and means could be found to integrate the substantive and procedural provisions in the three zones to such an extent as to establish a uniform practice throughout western Germany. In the Eastern Zone, except for Thuringia, where a Restitution Law was passed on 14 September 1945, nothing is known



of the carrying out of the program of restitution in the Soviet Zone. Inquiries from persons claiming restitution relating to property situated in the Russian Zone or in the Russian Sector of Berlin are constantly being forwarded to the Finance Division, Soviet Military Administration in Germany, Berlin-Karlshorst, and are answered only in very rare instances.

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Report file  
(#46)  
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ANNEX 5**S E C R E T**

**OFFICE OF MILITARY GOVERNMENT FOR BAVARIA  
PROPERTY DIVISION**

Property Control and External Assets Branch  
MUNICH GERMANY APO 407-A US ARMY SE/GED/ri

AG 386 MGBP

13 October 1948

**SUBJECT:** Cooperation Between Restitution Agencies  
and Property Control Representatives of Military  
Government.

**TO :**

- 1. Property Controller, District Oberbayern,  
Kreis Munich, APO 407-A, U.S. Army
- Property Controller, District Niederbay/Opf.  
Kreis Regensburg, APO 225, US Army
- Property Controller, District Ober- & Mittelfranken  
Kreis Nuernberg, APO 696, US Army
- Property Controller, District Unterfranken,  
Kreis Schweinfurt, APO 800, US Army
- Property Controller, District Schwaben,  
Kreis Augsburg, APO 178, US Army

1. Attached for your information is a copy of a letter forwarded this date to the Restitution Section of the Bayerische Landesamt fuer Vermoegensverwaltung und Wiedergutmachung.

2. Your attention is drawn to par. 1 d of attached letter which refers to letters of authorization to be given your representative. In order to avoid any misunderstanding on the part of the Restitution Agencies in your area your representative should be given the authorisation immediately.

3. It is requested that any action on the part of the Restitution Agencies which in your opinion is questionable be reported to this office by letter.

4. You are again requested to impress on your people that they are not to interfere with the settlement of any claim and above all to refrain from any actions or statements which might be construed to have influenced the decision regarding settlement of a claim.

FOR THE LAND DIRECTOR:

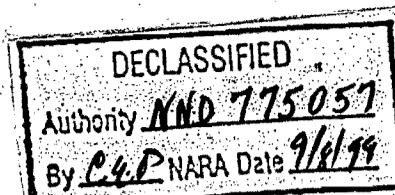
SHERWIN L. EHRLICH

Acting Land Property Control Chief

1 Incl:  
Cy ltr PC&EA Br.,  
dtd 13 Oct 48

Telephone: Munich Military 4-330

308412



B/L: OMGB, APO 170, US Army, dtd 27 Dec 46, Subj: Policy on Settlement of Duress Claims Out of Court

1st Ind.

OMGUS, FINANCE DIVISION, PROPERTY CONTROL BRANCH, APO 742, US ARMY  
9 January 1947

TO: Office of Military Government for Bavaria, APO 170, US Army  
Attn: Laender Property Control Chief

1. Reference is made to above request for definition of policy on "settlement of duress claims out of court".

2. As a hypothetical case this office would have no objection to a purely voluntary payment of additional money or goods based upon an agreement between the parties that a prior consideration was not sufficient. It must be understood, however, in the assumed case, that the party making the payment acted in the matter as a free agent, motivated only by his conscience and without being subjected to threats of future litigation.

3. It is believed, however, that the cited case of the payment by the firm Kraus to Silberthau represents a dangerous precedent and one that Military Government should most rigorously avoid insofar as it involves an indication that Property Control approves of such settlements.

4. On principle this office cannot, at this time, favor an adjustment of a prior transaction based upon the consideration that by making the settlement future litigation, founded upon a claim of duress, would be avoided. Such settlement would in itself circumvent the construed meaning of Military Government Law No. 52 and the present objectives of property control.

5. While it is contemplated that at a future date German courts will be opened for the settlement of alleged duress transactions, you are, of course, aware that no provision has yet been made under Military Government law for the disposition of such cases and no official announcement has been made in regard to the matter.

6. It is conceivable, from the very fact that no policy has been formulated concerning properties transferred under duress, that Silberthau might, at a later date, renew his claim in the courts based upon the contention that, as the prior settlement was made before a legal right existed under German law, his renunciation of his duress claim was without effect and that the amount paid was inadequate. On the other hand, it is likewise conceivable that the firm Kraus may subsequently

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Authority NND 775057  
By C.R.P NARA Date 9/6/99

B/L: OMGB, APO 170, US Army, dtd 27 Dec 46, Subj: Policy on Settlement of Duress Claims Out of Court

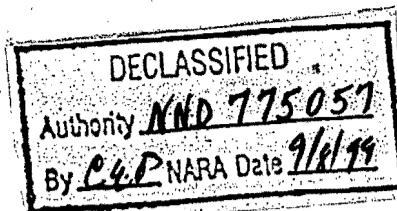
bring its case to the courts on the premise that the renouncement, made before an official pronouncement, did not constitute consideration for the settlement of over twice the amount of the original payment.

7. Par 2, Article I, Military Government Law No. 52, obviously contemplates that all properties allegedly transferred under duress during the Nazi regime will be held in status quo pending the formulation of procedures for the determination of rights in each case. While, as before stated, there could be no objection to wholly voluntary settlements, in the instant case the fact that payment was made in return for the promise not to bring a claim in the future would indicate a likelihood that Silberthau instigated the transaction by making the proposal for settlement to the Kraus firm. This act in itself, based on a threat of impending litigation, would appear to be in contravention of Law No. 52. The danger of the precedent illustrated by this case lies in the possibility that it will be rumored that Military Government has condoned "out of court" settlements as a means of avoiding future legal action. It is not beyond probability that such rumor would be the basis for the exertion of pressure against anyone who had purchased property from a person of Jewish extraction at any time during the Nazi regime, whether or not the elements of duress actually existed.

8. As a practical matter, it is understood that your office can do little to prevent transactions of this kind. It is suggested, however, that when similar cases come to your attention, prior to the payment of a so-called "adjustment" of a duress claim, the purported claimant be made to understand that the present processes of Military Government law provide for the taking of property under control, when there is an allegation of duress in its sale, pending eventual determination of the rights involved. On the other hand, the other party should be advised that a present payment might not prevent subsequent litigation. It should be recommended to both parties that the real property, goods, or money representing the consideration for the proposed settlement be placed under property control until such time as procedures have been formulated and announced for the settlement of all matters of this nature.

E. N. REINSEL  
Chief, Property Control Branch

Telephone: BERLIN 43757

*May. 1946*

OFFICE OF MILITARY GOVERNMENT FOR BAVARIA  
APO 170, US ARMY

AG 386 MGBFP

JMF/GED/ri  
27 December 1946

**SUBJECT:** Policy on Settlement of Duress Claims  
Out of Court.

**TO :** Director,  
Office of Military Government for Germany (US)  
APO 742, U.S. Army,  
Finance Division, Property Control Branch

1. This office desires a general policy on the settlement of duress claims out of court."
2. The following example is cited as being the first of many to follow.
3. In 1938 an old and well established firm purchased from a Jewish jeweller goods amounting to RM 20,000.--. At the time of the sale no objection was made by the jeweller Silberthau. However, Silberthau has now requested additional compensation based on the following reasons:

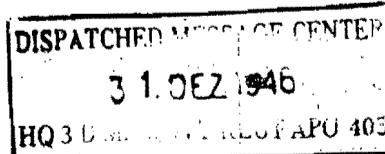
a. He does not feel that RM 20,000.-- was the appropriate compensation for the goods sold.

b. His firm has been destroyed by bombs.

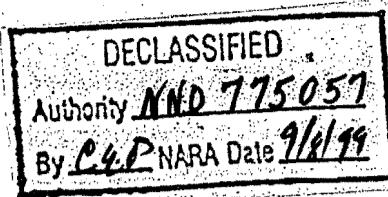
c. He is 80 years old, and does not desire to recover his business through restitution-claim.

Nevertheless he has negotiated with the firm Kraus, and they have reached an agreement whereby Kraus will turn over to Mr. Silberthau RM 7,150.-- in goods, and will give him RM 15,000.-- in cash. The agreement has been made on a very friendly basis, and both parties agree that the original RM 20,000.-- was a bit low. In return for the adjustment by Kraus Mr. Silberthau renounces in writing any possible duress claim he may have against the firm Kraus.

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Ltr, OMGB, file AG 386 MGBFP, Subj: Policy on Settlement of Duress Claims Out of Court, dtd 27 Dec 46 - Cont'd.

4. Insofar as this is the first case of this type received by this office it is desired that the principal involved be approved or disapproved by higher Headquarters.

FOR THE DIRECTOR:

*John M. Ferguson*  
JO M. FERGUSON  
Property Control  
Branch Chief

Tel.: MUNICH MILITARY 4-330

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Auth NND 775057  
By C4P NARA Date 9/8/99OFFICE OF MILITARY GOVERNMENT FOR BAVARIA  
APO 170, U.S. ARMY2164 11420  
SE/LLH/ri

AG 386 MGBFP

30 January 1947

SUBJECT: Instruction Letter (IL) No. 7.

TO : Landesamt für Vermögensverwaltung und Wiedergutmachung, 16 Prinzregentenplatz, Munich.

1. Duress Property.

## a. Necessity for Uniform Rule and Procedure.

General experience in administration of property control program strongly indicates the need for a uniform rule and procedure guide for CAHs respecting assumption and retention of control over duress property. Some CAHs have assumed existence of duress in any transfer from Jewish owners after 30 January 1933; other CAHs have assumed duress only in transfers on and after 9 November 1938 (date of SS programs); some have assumed that only Jewish property had been subject of duress transfer. There has also been uncertainty and lack of uniformity among CAHs as to what indicates duress. The following rules, interpretations and procedure are therefore established.

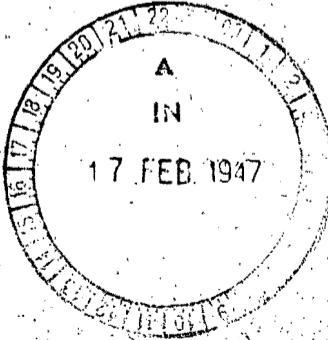
## b. Rules for Assuming Control of Properties Transferred from Jewish Owners.

## (1) Properties transferred from Jewish owners on or after 9 November, 1938.

Such transfers shall be assumed to be duress transfers unless the former owner has signed a statement since 8 May 1945 to the effect that no duress was involved. CAHS shall immediately take all such properties (except as noted in preceding sentence) under control and appoint custodians therefor. Displaced owners of course have the right to make showings to prove that the transfer was without duress but the assumption of control shall be immediate and shall not be delayed for such purpose. (See paragraph 1 e (2). )

## (2) Properties transferred from Jewish owners from 30 January 1933, through 8 Nov, 1938.

Such transfers are subject to suspicion of duress. The CAH office shall immediately investigate such transfers. As soon as any circumstance which reasonably indicates duress is shown, the CAH shall take the



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Authority NWD 775057  
By C4P NARA Date 9/1/99

Ltr. O GB, file AG 386 MGBFP, Subj: Instruction Letter No. 7, dtd 30 Jan 47. - Cont'd.

property under control and appoint a custodian (See paragraph 1 e (5).) (Further reference is made to Property Control Circular No. 1, Headquarters, Office of Military Government for Germany (US), Finance Division, dated 3 January 1947). Existence of any one or more circumstances listed in paragraph 1 f (5) shall be considered sufficient for control.

(3) Properties transferred from Jewish Owners before 30 January, 1933.

It is possible that duress sales took place before 30 January 1933 in certain localities controlled or strongly influenced by the NSDAP. Such cases, however, will be referred to the LPCC for approval before control is assumed.

c. Property Transferred from other Political Persecutees and victims of Nazi Aggression.

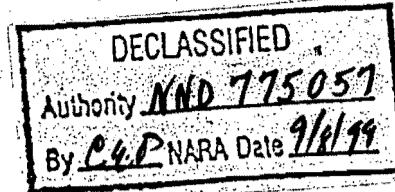
(i) Scope of Duress Clause.

Paragraph 3 of Military Government Law No. 52 provides for control of properties transferred "under duress, wrongful acts of confiscation, dispossession or spoliation, whether pursuant to legislation or by procedure purporting to follow forms of law or otherwise."

The above language is broad and comprehensive. It covers, in addition to duress, the concomitant or related acts of confiscation, spoliation, and other wrongful appropriation.

(2) Duress Clause Covers all Properties Appropriated by Wrongful Acts.

The present thorough enforcement of control over property transferred from Jews should not be diminished or lessened in intensity. The program of Nazi aggression against Jews is recognized, since it was so general, direct and organized (laws prohibiting ownership of property, employment and practice of profession; and discrimination regarding



Ltr. OMGB, file AG 386 MGBFP, Subj: Instruction Letter No. 7, dtd 30 Jan 47.- Cont'd.

travel, curfew, purchase of food and other commodities, etc.).

However, it is most important to remember, that other races and nationalities, and religious, political and economic groups, as well as countries and social institutions, were the victims of Nazi plunder and property appropriation. Countries at war with Germany and subjects or citizens thereof, Catholic, Protestant and other clerics and their religious institutions; liberal political parties and their adherents; unions and their members - all of these at various times, or continuously, were subjected to same wrongs. All of these are entitled to similar protection under the duress clause. (See OMIGUS PC Circular No. 1, 3 January 47)

(3) Rule for Assuming Control of Property Transferred other Political Persecutees and Victims of Nazi Aggression.

CAHs shall promptly investigate transfers of any property of countries or subjects or citizens thereof; and of religious, political or economic or social groups or institutions, in any case where the character or identity of the transferor or any other fact, supports a suspicion of persecution or duress. The CAH shall assume control of the property and appoint a custodian therefor, in any case as soon as circumstances reasonably indicate duress (See paragraph 1 f (5), ).

d. It is to be noted that the word "duress" in Law No. 52 refers only to transfers forced as a result of discriminatory acts, and not to the application of the principle of eminent domain by the government, e.g., establishment of an airfield involving condemnation proceedings against landowners whose property is necessary for the purpose, and who receive a reasonable payment for the land.

e. Claims transmitted by Office of Military Government for Germany (US).

Control will be assumed in every case in

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Authority NWD 775051  
By C4P NARA Date 9/6/99

Ltr: OMGB, file AG 386 MGBFP, Subj: Instruction Letter No. 7, dtd 30 Jan 47, - Cont'd.

which a claim alleging duress transfer has been transmitted from the Office of Military Government for Germany (US), unless examination of the Grundbuch reveals that the claimant or his family never had title to the property. However, when control has been assumed, and subsequent investigation of the circumstances of the sale reveal that the claim of "duress" has no real basis, the facts will be reported through normal channels. Control will continue unless otherwise directed by the CPCB.

f. General Method and Procedure on Investigations.

(1) CAH should have lists of Suspected Duress Property.

In most districts, Property Controllers devise some organized method of obtaining information on duress properties. Where the CAH has not followed such a system or devised his own, the Property Controller should make some constructive suggestion. By this date the CAH should have a list of all properties in his Kreis which were transferred from Jewish or other Nazi-persecuted owners or is otherwise suspected of being the subject of a duress transaction. Often the local Industrie und Handelskammer has records or can furnish information. Preparation of such list should be the first step. The CAH should use this as his worksheet.

(2) Immediate action Cases - No Investigation. Paragraph 1 b (1).

Where the transfer is from a Jewish owner and is on or after 9 November, 1938 (date of forcible, organized terror raids by SS and GESTAPO), immediate assumption of control is called for, with the exception indicated in paragraph 1 b (1).

(3) Cases Requiring Investigation and Report. Paragraphs 1 b (2), (3); 1 c (3).

On cases described in paragraphs 1 b (2), 1 b (3), and 1 c (3), the CAH shall cause individual investigations of each transaction to be made, and cause report to be

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By C4P NARA Date 9/1/99

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written thereon and filed in his office. Such report shall be available for inspection by, or submittal to the RCAH, LCAH, Property Controllers or LPCC. They shall show the action taken and the general grounds therefore. Action taken shall be in conformity with the rules in paragraphs 1 b (2), 1 b (3), and 1 c (3).

(4) General Sources of Information

- (a) Official Records - former Aryanization Office records, Grundbuch, Industrie & Handelskammer, Banks, etc.
- (b) Interviews with officials of above institutions, with impartial local residents or with friends or relatives of interested parties.
- (c) Communication or interview with former owner if possible.
- (d) Finanzamt records, particularly the records of the Reichskommissar für Feindvermögen.

(5) Circumstances Indicating Duress.

- (a) Any documents or well authenticated statements that property was transferred to comply with Aryanization Laws.
- (b) Handling of any property transfer through or supervision thereof by the Aryanization office, the Gauleiter's Office or any key local Nazi official (such as Kreisleiter)'s office.
- (c) Payment of funds for property into blocked accounts.
- (d) Loans at order or suggestion of Aryanization Office or Gauleiter to purchaser to permit payment for property.
- (e) Approval of purchaser by Aryanization office or Gauleiter's office.
- (f) Orders or suggestions by Aryanization office or Gauleiter's Office to former owner to dispose of property.

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By C4P NARA Date 9/8/99

Ltr. OMGB, file AG 386 MGEFP, Sub.: Instruction Letter No. 7, dtd 30 Jan 47. - Cont'd.

- (g) Sales at any substantial amount under current market. (Assessment may be used as guide but careful local inquiry should establish ration between assessment for tax purposes and actual value - former often being much lower).
- (h) Incarceration or imprisonment of former owner, or other persecution tending to indicate a desire to remove the former owner from his economic, social, or political position.
- (i) Actual assumption of custody of the property by any agency connected with Reichskommissar für Feindvermögen.
- (j) Any other circumstances which reasonably indicate duress.

### 2. Definition of Captured Enemy Material.

The Chief, Property Control Branch, Office of Military Government for Germany (US), has defined "captured enemy material" as follows:

"All removable supplies in the field owned by the German Army, Air Corps and Navy".

"The term 'in the field' is to be construed to mean property held for direct military use by enemy military forces.

"This definition is for use in connection with the release of captured enemy material in Property Control Custody to the Gesellschaft zur Erfassung von Rüstungsgut."

### 3. Control of Properties Subject to Regulation by the Information Control Division.

- a. When the owner of a property, necessary for the fulfilment of the Information Control mission, and therefore under Property Control, is "cleared" by final decision of a Spruchkammer, the property will be released from control just as in the case of non-ICD properties. It then will be the responsibility of the owner to effect a lease with the licensee or registrant appointed by the Information Control Division. In the event of failure of the owner and the ICD registrant or licensee to agree upon satisfactory arrangements for the operation of the property, the property will be

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By C4P NARA Date 9/1/99

Ltr. OMGB, file AG 386 MGBFP, Subj.: Instruction Letter No. 7, dtd 30 Jan 47, - Cont'd.

returned to Property Control custody upon the request of Information Control Division, and the reason for control will be given as "military necessity". The classification of the MG/PC 2 will be "J".

4. The Use of International Mail for Non-Transactional Communications.

a. Since the 2nd of December, 1946, the mails to points outside of Germany have been officially opened for non-transactional communications. Non-transactional commercial mail is limited to the ascertaining of facts and exchange of information. The closing of business deals and contracts is not permitted. Furthermore it is prohibited for persons under jurisdiction of the Allied Control Authority for Germany to carry on correspondence regarding German external assets even if only of a simple informational character.

b. The opening of mails for non-transactional communications will not alter the present procedure for forwarding property control reports and financial statements as required under Military Government Regulation Title 17. However, correspondence may be initiated and conducted direct between owners and custodians without sending copies to this office.

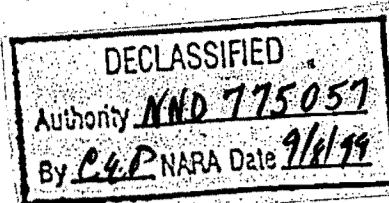
c. Property Control officials (both those under the supervision of the LCAH, as well as Property Controllers and their employees) will not communicate directly with individuals outside of Germany. All such communications from Property Control officials will be directed through channels to the LPCC for forwarding to the Property Control Branch, OMGBUS, which in turn will communicate with the individual concerned.

5. Leases of Property Owned by Non-Germans.

a. Cases have been brought to the attention of the LPCC where non-Germans (particularly American Nationals residing in Germany) have attempted to lease their property, located in Germany to members of the occupation forces.

b. The Legal Division, Office of Military Government for Bavaria, has indicated that such contracts are inconsistent with the provisions of paragraph 4 (a) of USFET Circular 140, subject: "Prohibited and Permitted Transactions in the Occupation Theater", dated 26 September 1946, which reads as follows:

"Real property located in Germany or Austria or located outside of Germany or Austria and owned by a German or Austrian National



Ltr. OMGB, file AG 386 MGBFF, Subj.: Instruction Letter  
No. 7, dtd 30 Jan 47, - Cont'd.

or Resident, may not be bought, sold, leased  
or otherwise acquired or transferred."

c. The Legal Division has indicated that the fact that such real estate is owned by an American Citizen does not alter the situation, inasmuch as he is a resident of Germany under the provisions of the directive.

7. Trade Union Buildings.

a. Reference is made to letter, Headquarters United States Forces European Theater, subject: "Trade Union Buildings", dated 4 September 1946.

b. The above directive states that it is the policy of USFET to foster legitimate activities of legally organized Trade Unions. This includes the furnishing of accommodations for the conduct of their necessary administration. Particularly Military Government is instructed to make available wherever possible former Deutsche Arbeitsfront buildings for the use of Trade Unions.

c. The LCAH will be responsible for insuring that these instructions are complied with by the CAHs.

FOR THE DIRECTOR:

Munich Military 4-326

*J. M. Ferguson*  
J. M. FERGUSON  
Property Control  
Branch Chief

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Authority NND 775057

By C.G.P NARA Date 9/1/79

CARRIER SHEET - MUST REMAIN WITH ATTACHED PAPERS - USE ENTIRE WIDTH OF SHEET - NUMBER ITEMS CONSECUTIVELY - DRAW LINE UNDER EACH ITEM

## OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

APO 742

FILE NO: Authorization to License Transactions in Compromise of Claims Respecting Duress  
 SUBJECT: Properties

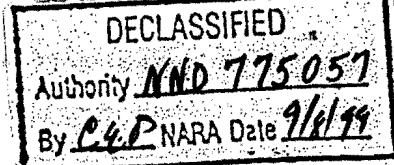
| NO. | TO | FROM | DATE       | (Has this been coordinated with all concerned?)   |
|-----|----|------|------------|---|
| 1.  | FD | FD   | 5 Aug 1947 | <p>1. Attached hereto is a copy of an authorization to Property Control Officers in the Laender to license transactions provided for in agreements of compromise on claims relating to duress properties. Also attached is a copy of the Opinion of the Legal Division, dated 13 June 1947, respecting the validity of such agreements of compromise.</p> <p>2. Corresponding action should be taken by the Foreign Exchange and Blocking Control Branch by the issuance of a special land central bank authorization permitting payment from blocked accounts in accordance with the agreed settlement of such claims. We are also obtaining the approval of the Legal Division to our proposed instruction.</p> <p>3. We would appreciate receiving the benefit of your comments.</p> |

2 Incls: a/s  
 Tel: Ext. 43961  
 Rm 416 FD Bldg

E. N. REINSEL  
 Chief,  
 Property Control Branch

(Page No.)

308425



Office of Military Government for Germany (US)  
Legal Division  
APO 742

Berlin, Germany  
13 June 1947

SUBJECT: Settlement of Duress Claims Out of Court

TO : Property Control Branch, Finance Division

1. Reference is made to your Carrier Sheet, dated 29 January 1947, requesting our opinion as to the following questions:

- A. May a valid agreement settling claims to title and for damages be made at the present time, with respect to property transferred under duress, which would bar any action based upon future legislation, provided that the agreement is properly licensed under MG Law No. 52?
- B. May such an agreement be made for present custody and present provisional payment of damages, if the right to make further adjustments under future legislation is reserved by both parties?
- C. Would the fact that the property transferred under duress had or had not been taken under control under MG Law No. 52 affect the answers to the above questions?

Reference is also made to our reply, dated 17 March 1947, your second indorsement requesting our opinion as to the question of the effect of German law on the validity of an agreement as outlined in question A; our reply, dated 2 April 1947; and your oral request for a more specific opinion on the effect of the general German law, particularly where, under German law there is now - and at the time of settlement - no legal cause of action for restitution.

2. In giving a consolidated opinion on the above questions, it is assumed that the Internal Restitution Law, after it will be enacted, contains no express provision as to the effect of any compromise made prior to the enactment of the Law. In this connection it may be noted that the German Law on Revaluation of Debts of 16 July 1925 (RGBl.I,p.117) provided in Section 67 thereof that any compromise made prior to the enactment of this Law shall remain in force, but that no such compromise made between 15 June 1922 and 14 February 1924 (the effective date of the first enactment dealing with revaluation of debts) shall prevent a revaluation pursuant to this Law.

Question A.

3. As a general proposition it may be safely stated that a valid agreement settling claims to title and for damages may be made at the present time with respect to property which was transferred under duress and that such agreement would operate as a bar to any action based upon future legislation, provided, however, that the agreement is properly licensed under Military Government Law No. 52, Article III, 3 (a).

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Authority NND 775051

By C4P NARA Date 9/1/11

a. There appears to be no stated Military Government policy and no public policy against the making of such anticipatory agreements prior to the enactment of the Internal Restitution Law.

b. As a general proposition German law recognizes the validity of what is termed a "compromise" in American law.

(1) The specific Section of the German Civil Code dealing with compromises is Section 779, contained in Title 19 under the heading "Compromise". This Section provides:

"A contract whereby the dispute or the uncertainty of the parties concerning a legal relation is ended by way of mutual concession (i.e., a compromise) shall not be binding if the state of facts taken as the basis according to the terms of the contract does not correspond to the actual facts, and if the dispute or the uncertainty would not have arisen if the true state of facts had been known.

Uncertainty concerning a legal relation shall be deemed to exist where the realization of a claim is uncertain."

(2) This Section of the German Civil Code makes clear that a compromise as above defined ordinarily is valid. Apart from the cases involving fraud or extortion, a compromise is invalid only if the state of facts which are assumed as the basis thereof does not correspond to the true situation and if the dispute or the uncertainty of the parties concerning a legal relationship would not have arisen had the true state of affairs been known.

(3) Where the parties to a compromise, or one of them, envisage only claims for restitution or damages under existing German law, but do not contemplate the possibility of the enactment of a special Restitution Law in the future, some doubt exists as to whether such compromise is valid. However, the German Supreme Court (Reichsgericht) has held that an error of the parties in respect to prospective legislation is not sufficient to invalidate a compromise under Section 779. (See Decisions of the Reichsgericht in Civil Cases, Vol. 117, p. 306 (310); see also Reichsgericht in Juristische Wochenschrift 1938, p. 1647 and p. 296.) It may be added that the situation above described is unlikely to arise at the present time.

(4) From paragraph (3), above, it follows a fortiori that a compromise is valid where the parties thereto contemplate the possibility that a Restitution Law will be enacted thereafter.

(5) It is true that Section 242 of the German Civil Code provides that the debtor is bound to perform his obligations according to the requirements of good faith, - a provision which might make it possible to take into consideration a subsequent change in law by holding that such a subsequent change destroys the basis of a contract and thus invalidates it. The Reichsgericht has squarely held, however, that a subsequent change in legislation, of itself, cannot justify the invalidation of a contract on the ground that the basis of the contract has been destroyed thereby. (See Reichsgericht in Juristische Wochenschrift 1938, p. 1647 and the cases cited there.)

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By C4P NARA Date 9/6/99

(6) The fact that one of the parties, in fact, has no claim for restitution or damages under existing law at the time of the settlement does not invalidate a compromise, provided both the parties to the compromise proceeded on the theory that it was uncertain under existing law whether any such claim existed. (See Staudinger, Commentaries to the Civil Code, 9th edition, S 779, note I, 3, b.)

(7) Where at the time of the settlement both parties know that the claimant has no legal right of recovery under existing law but desire to make a compromise because of their anticipation of a future Restitution Law which may create a legal right of recovery in claimant, the compromise is also valid. See Staudinger, Commentaries to the Civil Code, 9th edition, S 779, note I, 3, where it is stated that a legal relation is "uncertain" within the meaning of Section 779 if it is doubtful whether a claim may exist at some future time.

Question B.

4. An agreement may be made for present custody and present provisional payment of damages, which at the same time reserves to both parties the right to make further adjustments under future legislation. However, an agreement for custody cannot be made without a proper license by Military Government under Article III, paragraph 3 (a) of Military Government Law No. 52.

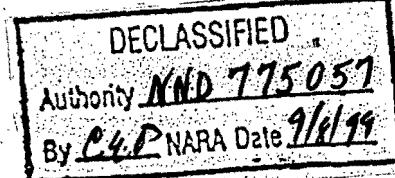
Question C.

5. The answers to questions A and B are not affected by the fact of whether or not property transferred under duress has been taken under property control under MG Law No. 52. Article III of Military Government Law No. 52 prohibits the transfer, disposal, surrendering, possession, custody or control of all property taken through duress or confiscation and this prohibition applies even though the property has not been taken into control by Military Government. Without a license from Military Government, therefore, no compromise can be made with respect to such property, even though it has not been placed under property control.

sgn. Alvin J. Rockwell

Alvin J. Rockwell  
Director

Telephone: 43416



11420 SJ/rt

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)  
Finance Division  
APO 742

Berlin, Germany  
12 November 1947

MEMORANDUM

SUBJECT: List of Typical Duress Claims.

TO : Mr. E. H. Rainsel

In accordance with our conversation this morning with Mr. Hawkins the following is a typical list of properties under control because of duress claims:

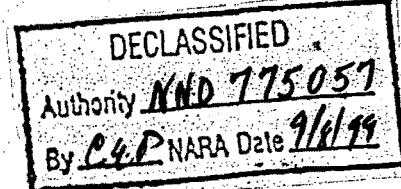
1. Dreiturn Soap Factory in Steinau, Land Hesse.
2. Properties of the Frankfurter Zeitung, Frankfurt/Main.
3. Neue Augsburger Kettenfabrik - a textile firm, Augsburg, Bavaria.
4. Muschi & Company, Nürnberg, Bavaria - manufacturers of carbon brushes and electrodes.
5. A Zipper Manufacturing Concern in Nürnberg.
6. Greiling & Company who manufacture ladies' shoes in Mannheim and Heidelberg and a firm dealing with the sale and rental of field railway equipment in Mannheim.
7. Banking House Seiler & Company, Munich, Bavaria.

PC File

STANLEY JOHNSON  
Major GSC  
Chief, United Nations & Neutral's Property  
Section

Tel: 42014

308429

JSK  
*[Handwritten signatures and initials: 2167, 1303, JV]*

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)  
Finance Division  
Berlin, Germany  
APO 742

9 December 1947

## MEMORANDUM

TO: Mr. E. J. Cassoday  
D/Chief, Property Control Branch

Transmitted herewith is analysis of residences of duress  
property claimants to properties located in the four Laender  
of the U.S. Area of Control.

Incl: a/s  
4 copies

Telephone: 42512

JOSEPH S. KORFANTY  
Chief  
Accounts & Audits Section

*[Signature]*  
KLS/cf

PC File

308430

308431

## OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

APO 742

APPENDIX S I S  
FOREIGN RESIDENCE - BUSINESS PROPERTY CLAIMS

26 NOVEMBER 1947

DECLASSIFIED  
Authority NMN 775057  
By L4P/NARA Date 9/6/99

REPRODUCED AT THE NATIONAL ARCHIVES

| Country of Residence | Total        |                      | Bavaria      |                      | Hesse        |                      | Wuerttemberg/Baden |                      | Bremen       |                      |
|----------------------|--------------|----------------------|--------------|----------------------|--------------|----------------------|--------------------|----------------------|--------------|----------------------|
|                      | No. of Units | Estimated Value (RM) | No. of Units | Estimated Value (RM) | No. of Units | Estimated Value (RM) | No. of Units       | Estimated Value (RM) | No. of Units | Estimated Value (RM) |
| Argentina            | 33           | 1,062,826            | 8            | 67,621               | -            | -                    | 24                 | 973,205              | 1            | 22,000               |
| Australia            | 5            | 216,489              | -            | -                    | -            | -                    | 5                  | 216,489              | -            | -                    |
| Austria              | 4            | 426,761              | 3            | 154,970              | -            | -                    | 1                  | 271,611              | -            | -                    |
| Belgium              | 14           | 524,519              | 4            | 61,215               | 1            | -                    | 9                  | 463,304              | -            | -                    |
| Bolivia              | 1            | 3,100                | 1            | 3,160                | -            | -                    | -                  | -                    | -            | -                    |
| Brazil               | 23           | 3,803,291            | 2            | 6,539                | 1            | 11,850               | 20                 | 3,472,902            | -            | -                    |
| Canada               | 22           | 5,504,607            | 6            | 67,716               | 3            | 144,990              | 13                 | 5,291,901            | -            | -                    |
| Chile                | 3            | 55,310               | -            | -                    | 1            | 32,160               | 1                  | 15,150               | 1            | 38,000               |
| China                | 2            | 1,661                | 1            | 1,661                | -            | -                    | 1                  | -                    | -            | -                    |
| Columbia             | 1            | 1,300                | -            | -                    | -            | -                    | 1                  | 1,300                | -            | -                    |
| Czechoslovakia       | 5            | 506,137              | 3            | 491,237              | 1            | 11,900               | 1                  | 3,000                | -            | -                    |
| Denmark              | 2            | -                    | -            | -                    | 2            | -                    | -                  | -                    | -            | -                    |
| Ecuador              | 5            | 121,761              | 2            | 16,550               | -            | -                    | 3                  | 105,231              | -            | -                    |
| Egypt                | 2            | 61,460               | -            | -                    | -            | -                    | 2                  | 61,460               | -            | -                    |
| France               | 92           | 4,769,505            | 7            | 257,539              | 31           | 891,804              | 54                 | 3,580,162            | -            | -                    |
| Germany              | 3,053        | 151,292,963          | 500          | 22,358,166           | 2,697        | 95,067,097           | 40                 | 31,170,267           | 56           | 2,697,431            |
| Greece               | 1            | -                    | -            | -                    | 1            | -                    | -                  | -                    | -            | -                    |
| Hungary              | 4            | 317,582              | 4            | 317,582              | -            | -                    | -                  | -                    | -            | -                    |

308432

| Country of Residence | Total        |                      | Bavaria      |                      | Hesse        |                      | Wuerttemberg/Baden |                      | Bremen       |                      |
|----------------------|--------------|----------------------|--------------|----------------------|--------------|----------------------|--------------------|----------------------|--------------|----------------------|
|                      | No. of Units | Estimated Value (RM) | No. of Units | Estimated Value (RM) | No. of Units | Estimated Value (RM) | No. of Units       | Estimated Value (RM) | No. of Units | Estimated Value (RM) |
| India                | 1            | 42,842               | -            | -                    | -            | -                    | 1                  | 42,842               | -            | -                    |
| Italy                | 5            | 322,001              | 2            | 205,113              | -            | -                    | 3                  | 116,888              | -            | -                    |
| Luxembourg           | 3            | 61,015               | 2            | 63,800               | -            | -                    | 1                  | 215                  | -            | -                    |
| Mexico               | 6            | 173,563              | 1            | 39,325               | -            | -                    | 4                  | 131,237              | 1            | 1                    |
| Morocco              | 1            | 12,700               | -            | -                    | -            | -                    | 1                  | 12,700               | -            | -                    |
| Netherlands          | 54           | 10,161,930           | 3            | 117,010              | 11           | 132,952              | 30                 | 2,103,588            | 10           | 7,505,380            |
| New Zealand          | 3            | 100                  | -            | -                    | -            | -                    | 3                  | 100                  | -            | -                    |
| Palestine            | 120          | 5,578,905            | 45           | 2,917,624            | 24           | 872,930              | 50                 | 1,779,351            | 1            | 9,000                |
| Poland               | 18           | 545,254              | 6            | 328,079              | 10           | 192,475              | -                  | -                    | 2            | 24,700               |
| Romania              | 2            | 37,319               | -            | -                    | 2            | 37,319               | -                  | -                    | -            | -                    |
| South Africa         | 36           | 1,574,010            | 3            | 50,100               | 6            | 27,341               | 26                 | 1,409,569            | 1            | 57,000               |
| Spain                | 10           | 146,751              | -            | -                    | -            | -                    | 10                 | 146,751              | -            | -                    |
| Sweden               | 5            | 18,670               | -            | -                    | 1            | 4,900                | 4                  | 13,770               | -            | -                    |
| Switzerland          | 125          | 7,438,449            | 52           | 1,175,803            | 28           | 3,259,278            | 45                 | 3,003,368            | -            | -                    |
| United Kingdom       | 325          | 43,945,035           | 104          | 32,131,435           | 147          | 3,487,531            | 74                 | 8,326,069            | -            | -                    |
| United States        | 1,566        | 118,437,835          | 457          | 21,352,672           | 645          | 32,457,453           | 746                | 59,404,319           | 18           | 52,23,441            |
| Uruguay              | 4            | 262,903              | 1            | 25,000               | -            | -                    | 3                  | 177,903              | -            | -                    |
| USA                  | 2            | 102,200              | 2            | 102,200              | -            | -                    | -                  | -                    | -            | -                    |
| Unknown              | 13,417       | 635,250,050          | 5,636        | 237,961,121          | 4,075        | 104,473,665          | 3,472              | 292,201,120          | 34           | 614,074              |
| Total                | 20,115       | 992,463,954          | 7,055        | 320,345,240          | 7,887        | 241,105,645          | 5,046              | 414,519,042          | 125          | 16,464,027           |

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Authority NWD 715057  
By L44P/NARA DIA 9/16/94

308433

OFFICE OF MILITARY GOVERNMENT  
LAND WUERTTEMBERG-BADEN

7780th Ordnance Group, Wuerett./Baden Section  
FIRST MILITARY GOVERNMENT BATTALION (SEPT)

APO 154

US ARMY

Prop Con  
JAP/jst/hs

STUTTGART, GERMANY

30 Sept 1948

SUBJECT: Survey of duress properties with unknown addresses of claimants

TO : Commanding General, OMG for Germany (US)  
APO 633, US Army  
Attn.: Property Division, Prop Con & External Assets Branch

1. Submitted herewith in duplicate are schedules reflecting duress properties with unknown addresses of claimants. The schedules are intended for use by the Jewish Restitution Successor Organization and should be transmitted to the Central Filing Agency at Bad Nauheim.

2. Schedules are attached for the following Kreise of this Zone:

Aalen and Schw.Gmuend (one list)

Karlsruhe

Backnang

Kuenzelsau

Bruchsal

Ludwigsburg

Buchen

Mannheim

Crailsheim

Mergentheim

Esslingen, Waiblingen and  
Muertingen (one list)

Mosbach

Goeppingen

Pferzheim

Schw.Hall

Sinsheim

Heidelberg

Stuttgart

Heilbronn and Gehringen (one list)

Tauberbischofsheim

Ulm & Heidenheim (one list)

Vaihingen

3. No such properties are to be reported for the Kreise  
Boeblingen and Leonberg.

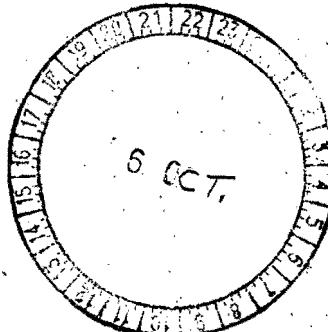
FOR THE DIRECTOR:

*Emil Danner*

ZINN GARRETT  
Land Property Control Chief

Encls.: a/s

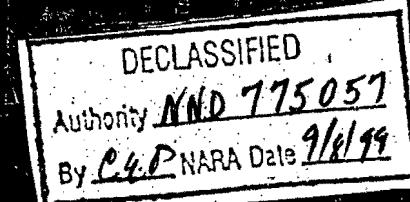
Tel: Stuttgart 93221/519



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BY ECP/NRA Date 9/8/99  
Authority NWD 775051  
DECLASSIFIED

REPRODUCED AT THE NATIONAL ARCHIVES



11420

Mr. Korfanty

SUBJECT: Policy on Exercise of Property Control Action  
with Respect to Duress Properties  
Ltr OMGUS, Prop Contr & Ext Ass Br,  
dtd 30 Nov 1948.

AG 386 MGBP  
(30 Nov 48)

1st Ind

SE/lm

OFFICE OF MILITARY GOVERNMENT FOR BAVARIA, PROPERTY DIVISION,  
PROPERTY CONTROL AND EXTERNAL ASSETS BRANCH, MUNICH, GERMANY,  
APO 407-A, US ARMY

14 Dec 1948

TO : Office of Military Government for Germany (US)  
Property Division  
Property Control and External Assets Branch  
APO 633, US Army

1. Paragraph 3b of the Landesamt Circular Letter # 125, upon recommendation of this office had already been amended on 25 October 1948. This amendment was to insure compliance with PC Circular No 2.

2. Regarding that section of par 3 which refers to the control of properties regarding which a petition had not been filed with the Central Filing Agency, the Landesamt has certified to this office, that all CAH's understand that the paragraphs 1a to c of subject Circular Letter include the sentence "in cases where irreparable damage should result from the omission of property control the following directives shall apply."

FOR THE LAND DIRECTOR:

1 Incl:  
n/c

Tel: MM 4-313



*Sherman L. Ehrlich*  
SHERMAN L. EHRLICH  
Land Property Control Chief

DECLASSIFIED  
Authority NND 775057  
By C.R.P. NARA Date 9/6/99

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US) Box 7

Property Division  
Property Control and External Assets Branch  
APO 633  
Wiesbaden, Germany

26260  
Recs of the Property Division"Duress Properties" file  
390144/20104

30 November 1948

SUBJECT: Policy on Exercise of Property Control Action with Respect to  
Duress Properties

TO : Office of Military Government for Bavaria  
APO 407, U.S. Army  
*Duress*  
Attn: Land Property Control Chief

1. Reference is made to par 3b of Circular Letter No 125 (copy inclosed) issued by the LCAH Bavaria on 12 October 1948.
2. Application by CAHs of the rule as laid down in this paragraph will result in taking into control of many duress properties which, for policy reasons, should not be taken into control.
3. It will be noted that the net effect of our PC Circulars 2, 3, and 5, insofar as duress properties are concerned, is to limit the exercise of Property Control action to:

a. duress properties for which a petition has been received; and,

b. duress properties for which no petition has been received but in connection with which irreparable harm may result if Property Control action is not exercised.

4. Paragraph 3b of Circular Letter No 125 is therefore faulty in that it does not limit Property Control action to "irreparable harm" cases with respect to the duress properties for which no petitions have been received.

5. Accordingly, it is desired that your office instruct the LCAH to amend par 3b of Circular Letter No 125 so as to conform with the policy stated above.

1 Incl:  
Circ Ltr No 125

Telephone WIESBADEN 21341  
Ext 423

*Fred E. Hartzsch*  
FRED E. HARTZSCH  
Chief

Office of Military Government  
for Bavaria  
7. - DEZ. 1948  
Property Control 43938

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Authority NND 775051

By C4P NARA Date 9/8/99

11420

OFFICE OF MILITARY GOVERNMENT FOR HESSE JFR/dtk  
Property Division

APO 633

US Army

Wiesbaden, Germany  
15 December 1948

SUBJECT: Position Holding Possessors of "G" Properties.

TO : Office of Military Government for Germany (US)  
Property Division Property Control and External  
Assets Branch  
APO 633 US Army  
ATTN: Mr. Porter

Attached is a statement of Dr. Stramitzer, Land Civilian  
Agency Head for Land Hesse, in subject matter forwarded to  
you at his request.

Incl.  
a/sJOHN R. CAIN  
Chief  
Property Control BranchTelephone:  
Wiesbaden 21341 Ex 364

308436

DECLASSIFIED  
Authority NND 775051  
By C4P NARA Date 9/1/19

**STATEMENT**

II/1 DRF/gh

**SUBJECT:** G Properties present Possessors of which are holding Leading Positions.

**RE:** Discussion held on 3 Dec 1948 between Mr. Porter and the LOAN of Laender Bavaria, Württemberg-Baden and Hessen.

1. During the aforementioned discussion LOAN were informed of the intention of GMGUS to issue an instruction letter to the effect that, as a matter of principle, employment of present possessors of G properties in a leading position shall be prohibited. It was agreed that each LOAN should submit through the competent LGCC a statement to be prepared by the German agency indicating the reasons supporting the fundamentally contrary view taken by the LOAN.

2. Whereas it is the content and objective of MG Law 59 to provide for retransfer of certain illegally confiscated properties located within the US Zone to the restitutees, it is the content and objective of MG Law 52, Art I, para 2, to ensure that pending ultimate disposition of property taken into custody, such property will be administered in a reasonable way on behalf of the final owner, maintained and, if possible, increased (Title 17-501 and Appointment of Custodian - Title 17-815 Add, dtd 1 March 1946, para B).

Authority and responsibility for administration of the Property Control program have been transferred to the LOAN (MGH 17-130 and letters issued by Military Government on 1 and 9 April 1948). It is true, however, that by instruction letter issued on 22 May 1946 Land Military Government has reserved to itself the right of supervision and issuance of instructions to the LOAN. German agencies are prohibited to modify any Property Control principles of a basic nature. It may be assumed that the term "basic nature" is referring to Military Government Regulations Title 17 and all those rules which, in Property Control administration, have proved to be generally necessary or appropriate even without having been specifically laid down in writing.

3. Whereas in 1945/1946 PCO's have applied a very broad interpretation to the term "duress" as mentioned in MG Law 52, Art I, para 2 and have construed that term as comprising all formerly Jewish properties, Art 52 et seqq. under MG Law 59 meanwhile promulgated have somewhat restricted assumption of Property Control over those properties by establishing the possibility of non-repairable harm as a prerequisite for Property Control action. The decision as to whether or not that prerequisite is to be considered satisfied, has been left at the discretion of Restitution Authorities. Where Property Control measures prescribed under MG Law 52, Art I, para 2, are involved, PC Circular Nos 2 and 3 have delegated the decision upon the necessity of Property Control action to the LOAN.

Since decision on the primary problem, i.e. whether or not a certain property should be taken into Property Control custody, has been delegated to the LOAN, it may be assumed that the secondary question concerning employment of restitutees-and/or-restitutors within a property under custody is also falling within the competency of the LOAN.

4. As far as this office knows, neither MG Laws 52 and 59 nor MGR Title 17, PC Circulars and Policy Letters concern themselves in any way with the employment of former owners and present possessors

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Authority NND 775051

9/1/66

- 2 -

or their authorized agents under the management of and supervision by the custodian appointed. Pursuant to the wording prescribed by Military Government the custodians have been given by the Custodian Appointment "full power of management and direction". That language used implies that, as a matter of principle, the custodians are bound to decide within their own competency upon the employment of parties to the restitution proceedings exclusively in consideration of the question as to the economic advisability of such measure. When making such decision, custodians have at their disposal four different possibilities among which they may choose one in consideration of the merits of the individual case. E.g. among the properties under Property Control custody located in Hesse there are examples for each of the following cases: none, one or the other of the parties concerned or both parties are cooperating in the commercial or technical management of the property. In the opinion of the undersigned LIAF it will be possible but in consideration of the merits of the individual case to decide which of those possibilities is to be considered useful and appropriate in the interest of the blocked properties. In almost every instance, especially however in post-war Europe, administering and maintaining properties is a question of elasticity and dynamics which tasks require in any case cooperation of business-men who have initiative and are disposing of first-class sources from where to procure the essential raw materials. In almost any case those qualifications are vested in the aryanizer who has managed the property for 10 or more years. Any rigid application of fixed rules and any attempt to solve this problem by issuing directives of a general nature are bound to result in damaging the properties concerned. The procedure of generalizing findings made in individual cases and to base on those generalizations orders affecting the properties concerned as a whole, must be considered most inopportune. Reference is made to the following examples:

- a) A. Hosenberger & Co., Eschwege, formerly Dörnberg & Co.  
Serial No VG-1971-18. Textile Factory.

The aryanizer Hosenberger is managing the firm under supervision of the custodian. He is an expert in the textile field hardly to be replaced. Nobody but he is disposing of the connections to the suppliers of raw materials. A managing custodian would hardly be able to purchase the raw materials required. The plant which had been entirely bombed out has been reconstructed by him 1945/46 and newly equipped. In 1947 a fire destroyed almost the whole place. Hosenberger had the plant reconstructed for a second time and, at present, the value of subject property is exceeding militarily its former value (approx 300 % of its 1931 value).

- b) Meese & Richter, Wrexen, formerly Sigmund Mosheim  
Serial No VG-3122-365, Paper Mill.

One of the restitees, Mr. Mosheim, has been running the firm since 1945.

- Hansa-Schwerweberei, formerly M. Gottschalk & Co., Kassel  
Serial No VG-2146-19, Weaving Mill

The grand-daughter of the former owner, Mrs. el Khantib, has been managing that enterprise since 1945 and has attained satisfactory economic results.

- c) Val. Mohler A.G., Fulda  
Serial No VG-2143-19, Quil-Cloth Weaving Mill

None of the parties concerned is represented in the firm's management. The custodian has excluded the aryanizer Kaus from cooper-

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DECLASSIFIED

Authority NND 775057

By C.R.P. NARA Date 9/6/79

- 3 -

ion for the reason that Kaus is no expert in the textile business. The former owner, Mrs. Kayser, has died. The custodian himself is not a specialist. First-class professional men do not want to take over that sort of a custodianship for the reason that only a moderate fee and an employment contract providing for daily notice may be allowed. Experts hired for such big enterprises are receiving remunerations ten times exceeding that which may be granted by subject enterprise, long-term contracts, and the prospect of a lifelong position. Thus, subject enterprise is not yielding any profits.

4) Gehr, Rhode, Eschwege, formerly L. Brinkmann  
Serial No VG-3124-38, Manufacturers of Knitted Goods.

Both Mr. Werz being the authorized agent of the former owners and Dr. Mayknecht being the representative of the restitutor are cooperating in the firm's management under supervision of the custodian. That cooperation is working smoothly. Whereas the restitutor is making use of his good German connections for procuring raw materials, the restitutee who is now a British subject is preparing the firm's export business. An amicable agreement is to be anticipated. The economic results are good.

5. None of the aforementioned examples may be generalized. The only three conclusions which may safely be taken therefrom are the following:

- a) In order to achieve a reasonable settlement and to obtain the best possible economic results it will be essential to examine each case in consideration of its individual merits;
- b) Since the Custodian Appointment is imposing full responsibility upon the custodian, nobody should force upon him measures inconsistent with his judgment;
- c) Any rigid application of general rules will damage a certain group of properties.

6. In support of the latter statement attention is invited to the well-known fact that Jewish participation in the economy of US Zone has been mainly in the field of trade, small manufacturing and handicraft enterprises and retail businesses rather than in the field of large-scale manufacturing and big business. Forced removal of all aryanizers would not merely result in loss of the individual enterprises concerned but also necessarily in difficulties arising to the economy as a whole. The All-Giesen, Mr. Westermann, when asked about this subject, declared that about 30% of the retail trade firms domiciled in the city of Giessen had formerly been owned by Jews and are, therefore, presently subject to Property Control custody. Forced removal of the aryanizers would presumably result in an interruption in the supply of the population. In the present situation of German economy not selling but purchasing is the main issue. In this connection it is pointed out again that it is not an employee of the custodian but exclusively the aryanizer who will be in a position to avail himself of all purchasing possibilities. It should also be borne in mind that e.g. in Frankfurt several hundreds of small and smallest shops had been aryanized. Those shops are now being operated by the aryanizers and, in many instances, they are assisted by their wives as employees. In most cases the apartments are directly connected with the shop. Where such aryanizer is prohibited to continue operation, such action will necessitate employment of another person, if possible, an expert, and payment of a salary to same. Such employee whose payment would draw additional funds from the property concerned, would hardly be interested in caring for the firm's reconstruction.

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Authority NND 775057

By C4P NARA Date 9/1/19

and improvement and for the recovery of some damages. Contrary to the present owner, such employee would probably insist on an 8-hours working day. Moreover, it might be found difficult to exercise a control over him, and he would probably conclude transactions to his own profit. The property would also have to be charged with the personal expenses of the owner forcibly removed from his position, which expenses would have to be paid by virtue of General Licence No 1. Since in case of that nature German public welfare authorities are refusing to grant any subsidy, it will not be possible to deny the owners payment of those expenses. Last not least, attention is invited to the fact that according to information received from GAA Frankfurt/Rhein, Dr. Helmholz, execution of that measure would practically be impossible at all due to such large number of unengaged persons not being available.

Furthermore, juristic persons would also have to be considered in this connection. Analogous to the measures contemplated concerning private firms the working elements of corporations (board of management of AGs, managers of GmbHs, board of directors) appointed by the aryanizers who, in cases of that nature, are holding the majority or all shares in the corporations concerned, would have to be removed and replaced by entirely impartial persons.

7. On the basis of their practical experiences made in the field of administration of properties, and of their thorough knowledge of German economic conditions LCAs of the US Zone are raising, for the aforementioned reasons, their most severe objections against the contemplated schematic settlement. Moreover, the procedure of assigning generally rights in the administration of properties to one party only is considered inappropriate by the LCAs. The restitutee should neither be permitted to yeto the employment of the aryanizer nor be required to authorize such cooperation, quite apart from the fact that due to the whereabouts of the restitutee not being known in most instances it will not be possible to obtain his comments. Thus, the fact that the custodian is solely responsible for the property should result in excluding third parties being assigned the right to influence decisively its administration. Administration of properties is a prosaic economic task. General elimination from cooperation or the requirement of having one party approve employment of the other constitute, in view of the present still tense atmosphere, a measure which does not take into account economic necessities.

8. The LCAH for the Land Hesse, therefore, requests for considering the following proposition:

- a) the custodian of a G property must be impartial and personally disinterested in the property;
- b) the parties to the restitution proceedings are to be excluded from cooperations in leading positions unless cogent reasons of an economic nature render such measure necessary;
- c) exemptions from the rule laid down in para b), above, will be applied for in writing by the custodian stating reasons for such application and will be examined in each individual case by the LCAH office;
- d) the LCAH will state his approval in writing concerning each individual case.

If a decision along the lines of the above suggestions should not be rendered, it is requested to make, prior to issuing a general decision, practical experiments by removing some aryanizers from their positions held in outstanding enterprises, and to render a final decision inconsistent with the view taken by the LCAH but after experiences deriving from those removals will be available.

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Authority NND 775057

By C4P NARA Date 9/6/99

- 5 -

9. Finally, it is pointed out that removal of presumably ten thousands of organizers from their positions held in blocked properties will probably result in severely impeding the supply of the population in the US Zone.

Wiesbaden, 13 Dec 1948

*Stramtaer*  
DR. STRAMTAER  
LCAB

308441

*1420*  
*1420*  
JAP/JR  
(168)

7 February 1949

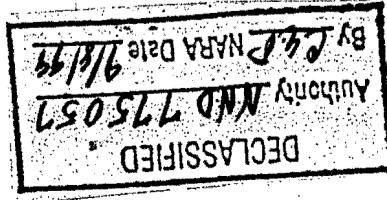
SUBJECT: Release of "D" Properties

TO: Office of Military Government for Hesse  
Property Division  
APO 633, U.S. Army

Attn: Property Control Branch  
Reference is made to your letter, dated 11 January 1949, in the above entitled matter, receipt of which is hereby acknowledged.

After due consideration of your views as expressed in said letter, it is the opinion of this office that properties of a durees nature in "D" category may properly be released from control or exempted from control, if not already in custody, on the basis of a waiver or communication which in writing and in express terms (even if informal, unnotarized, or written in pencil) indicates a clear intention to refrain from any action in the nature of a prosecution of a claim with respect to the specific property in question; or which, in effect, asserts entire satisfaction and ratification of a transaction resulting in the transfer of the specific property by the former owner to the present owner or his successor in interest. The waiver or document purported as serving as a waiver must, of course, have been executed during the period from 8 May 1945 to 31 December 1948.

This office agrees with your view that, in many cases, there may be a serious question as to the legal sufficiency of an alleged waiver. However, it is believed that a sufficient remedy was provided to any person who might have an interest in the property in that he could have filed a claim to such property on or before 31 December 1948. In such cases, notwithstanding any waiver or alleged waiver, the property would have to be taken into property control custody. In the absence of a filing of any claim and consistently with our policy of refraining from unnecessary exercise of property control action, there is no sufficient justification for keeping or taking any property under control.



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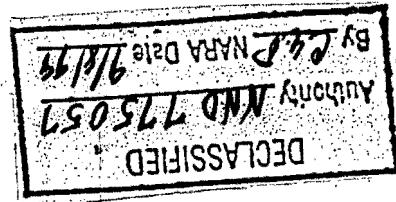
"Release of "G" Properties", Attd 7 February 1949

While it is true that a successor organization such as JRSO may have filed a claim to property which has been released on the basis of an alleged waiver, it should be recalled that the JRSO will undoubtedly withdraw such claim upon ascertaining that the former owner or his successor in interest who is a more proper claimant, refrained from making any claim and furnished to the present owner a written statement which, in express terms, clearly indicates satisfaction and agreement with the transaction resulting in transfer of title. In the event that the JRSO sees fit to challenge the validity of the alleged waiver, it may, of course, do so and the question will be decided by the courts. However, as a practical proposition it may be assumed that any defect in the alleged waiver could be cured by the execution of a legally sufficient waiver upon request of the present owner who relies upon the assurance of the former owner.

4. For all of the foregoing reasons, therefore, it is felt that, if the properties involved in your communication were released because no claim had in fact been filed with the Central Filing Agency by the former owner and on the basis of waivers (or statements amounting to declarations) clearly indicating an intention to refrain from any action in the nature of a prosecution of a claim), Property Control action should not be imposed.

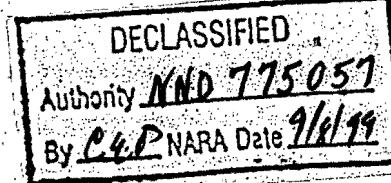
Tell: Wiesbaden 21341  
Ext. 426

FRED E. HABITZER  
Chief



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308443



*Original filed at  
Claims Sec.*

OFFICE OF MILITARY GOVERNMENT FOR HESSE JFR/dtk  
Property Division  
APO 633 US Army

Wiesbaden, Germany  
11 January 1949

SUBJECT: Release of "G" Properties.

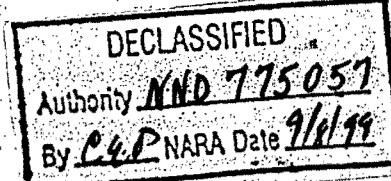
TO : Office of Military Government for Germany (US)  
Property Division Property Control and External  
Assets Branch  
APO 633 US Army  
ATTN: Mr. Porter

1. Some 39 cases in Land Hesse have been released on the basis of a waiver, declaration of non interest or a relinquishment of right, under the provisions of Article 11, Paragraph 3 of MG Law 59. Some doubt may exist as to the validity of these waivers since no requirement of proof is set forth in the law other than that same be in writing and in express terms and many of them are quite informal, unattested, and, in some cases, written in pencil. It is requested in this connection that your office set forth the degree of proof to be required under the above mentioned paragraph and the manner in which same should be presented.

2. In view of the fact that in a majority of these cases a claim will be filed by a Successor Organization, it is recommended that the properties heretofore so released be retaken under control and that the evidence of waiver be passed on by the Restitution Agencies when the matter comes before them. Your concurrence or comment is requested.

JOHN R. CAIN  
Chief  
Property Control Branch

Telephone:  
Wiesbaden 21341 Ex 364

11420 ~~10460~~ Claims

OFFICE OF MILITARY GOVERNMENT  
LAND WUERTTEMBERG-BADEN  
7780TH OMGUS GROUP, WUERTTEMBERG-BADEN SECTION  
APO 154 US ARMY

LEY/mm  
Prop ConSTUTTGART, GERMANY  
4 March 1949SUBJECT: Release of "G" Properties from  
Property Control Custody

TO : Commanding General,  
Office of Military Government for Germany (US)  
Wiesbaden, Germany  
APO 633, US Army  
ATT: Property Division, Property Control and External Assets Branch

1. Reference is made to Property Control conference in which a review was requested as to the number of "G" properties being released from Property Control custody. The figure as reflected in the monthly reports seemed high in comparison with the number of settlements made by the Restitution Chambers.

2. A survey conducted by this office revealed that 48 properties have been released because of amicable settlements pursuant to Law No. 59, 54 properties have been released because of waiver of claim and approximately 50 properties had been released from custody pursuant to Title 17-501.

*"Insufficient  
value"* (3) 3. Statistics reveal that these releases were made properly and in accordance with directives and policy.

FOR THE DIRECTOR:

ZINN GARRETT

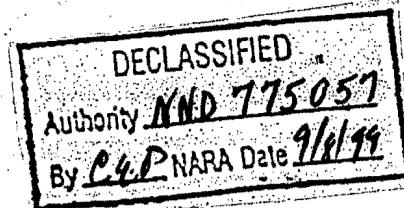
Land Property Control Chief

Telephone STUTTGART 93221/552.



*Filed 29/3*

308445



JTW/jr.

7 March 1949

SUBJECT: Release of Duress Properties now under Control  
for which no Claim has been filed

TO : Headquarters  
Jewish Restitution Successor Organization  
APO 696, U.S. Army

1. It will be the policy of the Property Control and External Assets Branch of the Property Division, after all petitions received by the Central Filing Agency have been forwarded to the Restitution Agencies, to release all duress properties ("G" properties) now under control, for the restitution of which no claim has been filed, including those for which no claim has been filed except by JRSD.

2. The retention under control of properties which have only been claimed by JRSD will be governed by the provisions and procedures set forth in paragraph 3 f of Property Control Circular No.1, dated 3 January 1949, subject: "Administrative Requirements for Proper Execution of Military Government Law No.59 (Restitution of Identifiable Property)", copy of which is attached hereto.

1 Incl: a/s

FRED E. HARTZOGH  
ChiefTel: Wiesbaden 21341  
Ext 425

308446

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DECLASSIFIED  
Authority NND 775051  
By C4P NARA Date 9/11/19

Subject : Release of duress properties from control - page Pete

On the consideration of your desire we do agree the number of  
paragraphs under subject.

15 March 1949

5. Your favorable receipt of our request will be  
**SUBJECT:** Release of duress properties from control

TO : Property Control and External Assets Branch  
OMGUS  
APO 633, U.S. Army

Attn; Mr. Fred E. Hartzsch

1. Reference is made to your letter, subject: "Release of  
duress properties for which no claim has been filed", dated 7 March 1949.

2. It is requested that no "G"-category property be released  
from control until a final settlement of an individual or JRSO claim  
under Law 59 has been made by restitution agencies or courts.

We believe that this request should not affect the general  
provisions for release of properties which of insignificant value, or  
of such nature that they can be adequately safeguarded and administered  
through blocking control, or were taken under control in error.

3. It was understood that no additional properties would be  
taken under control by virtue of petitions filed by the JRSO, except  
as provided in par. 3f of Property Control Circular #1, dated  
3 January 1949. At no time, however, did we assume that properties  
which were taken under control by Military Government and placed in  
the "G"-category would be released from control prior to the final com-  
pletion of all restitution proceedings, inclusive of proceedings  
initiated by the JRSO.

4. You are undoubtedly aware that JRSO claims cover all  
Jewish properties under control. Thus the effect of your contem-  
plated action would be to release duress properties from control by  
virtue of the fact that only the JRSO appears as a claimant. In this  
connection it may be of interest that in cases of properties of dis-  
solved Jewish associations no other claimant may be expected.

5. You will recognize that the JRSO cannot agree to a lesser  
degree of protection than is afforded individual claimants. When we  
agreed to abstain, as a rule, from requesting new property control  
action on the basis of petitions submitted by the JRSO, we have done

308447

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NND 775057

Authority # 1  
- P/NABA Date 9/9/99

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SUBJECT : Release of duress properties from control - page 2

so in consideration of your desire not to increase the number of properties under control. 19 March 1949

主張：民族問題（上）

6. Your favorable consideration of our request will be appreciated.

卷之三

卷之三

1. *Leucosia* *leucostoma* (Fabricius) *lutea* (Fabricius) *leucostoma* (Fabricius)

主教的職務。他說，他會盡力為教宗服務。

SAUL KAGAN

### **Director**

Tel.; Nuernberg 26292. Plans and Operations Board

總之，我們在學習上要勤奮，但學習上也有時候會遇到困難，這時我們要怎麼辦呢？

特此通知。望各有关单位接此通知后，立即着手组织力量，抓紧时间，按期完成任务。

其後，我國政府在蘇聯的幫助下，開始了對農業的社會化改造。這項工作在全國範圍內逐步推進，並取得了顯著的成績。農業生產得到進一步的發展，農民的生活水平也有了明顯的提高。同時，農業社會化改造還為中國的社會主義建設提供了重要的經驗和啟示。

在這裏，我們可以說，當初的「新文化運動」，就是一個「民族主義運動」。當時的新文化運動者，他們的民族主義觀念，是和當時的中國知識分子一樣，是極為強烈的。他們的民族主義觀念，是和當時的中國知識分子一樣，是極為強烈的。

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Authority NND 775051

By CAP NARA Date 9/1/74

MEMORANDUM

15 March 1949

SUBJECT: Release of Duress Properties now under Control for which no Claim has been filed and the Letter of 7 March 1949 to JRSO delineating policy to be followed

TO : Mr. John A. Porter

1. The letter of 7 March 1949 states that "the retention under control of properties which have only been claimed by JRSO will be governed by the provisions and procedures set forth in paragraph 3 f of Property Control Circular No. 1, dated 3 January 1949".

2. Paragraph 3 f of Property Control Circular No. 1 in context regards the imposition of "Automatic Control" on the basis of petitions filed by JRSO states that such "will be effected only in such cases where specific request is made therefor by JRSO, (or other successor organizations), and satisfactory reason is submitted to the Land Property Control Chief that property control action is necessary to safeguard a claimant's interests or to prevent irreparable damage."

3. Mr. Kagen of JRSO called Mr. Hartzsch about this protesting the release to be too broad and imposing too much responsibility on JRSO in regards to "specific requests".

4. Mr. Hartzsch informed Mr. Kagen on the phone that no release of valuable properties was contemplated and that just junk of the following four categories was to be released:

- a. property of insignificant value, non income-producing;
- b. property under control through error;
- c. property where final settlement of a restitution case has been reached;
- d. property adequately protected by blocking control;

and that they (JRSO) would be informed definitely of this by a letter modifying the letter of 7 March 1949.

Ext. 428

J. M. McFARLAND

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Authority NND 775057  
By C4P NARA Date 9/8/19

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JTM/JR

Same letter  
written to Bavaria,  
Wuertt.-Baden and  
Bremen, cy to JRSC

25 March 1949

SUBJECT: Release of Durees Properties from Control

TO : Office of Military Government for Hesse  
APO 833, U.S. Army  
Attn: Property Division

1. Military Government policy with regard to the above subject has been discussed with interested agencies in an attempt to ascertain the extent to which such properties can be decontrolled without prejudicing the rights of interested individuals or organizations.

2. The conclusion has been reached, and should be immediately transmitted by you to all interested agencies, that no properties taken under control by Military Government and placed in the "G" category shall be released, or otherwise decontrolled, prior to the final completion of all restitution proceedings, inclusive of proceedings initiated by JRSC, except properties in the following five categories:

- a. property of insignificant value;
- b. property placed under control through error;
- c. property involved in the final settlement or adjudication of a restitution claim;
- d. property deemed to be adequately protected by blocking control;
- e. property with respect to which it can be definitely ascertained that no claim has been filed by any individual or organization.

FRED W. HANTZSCHE  
Chief

Tel: Wiesbaden 21341  
Ext. 428

308450

Authority 200170051  
By NARA Date 7/18Property Control  
Division, OMGSUS  
OMGUS Box 12  
RG 260

File 39

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unSigned

Today I have to ask you for a favor which, I think, is of great importance. It concerns special measures introduced by Property Control in Stuttgart which are applicable in Wuerttemberg-Baden only and not in any of the other Laender of the US Zone: Restitution of identifiable property shall be effected pursuant to the Restitution Law (Law No. 59 of Military Government) to persons who were wrongfully deprived of such property for reasons of race, religion or political opposition to National Socialism. Concerning this property trustees (custodians) shall be appointed. In many cases persons who had acquired property from political, racial and religious persecutees have been appointed trustees. There are also cases where the former owners have been appointed trustees.

In none of the Laender of the American Zone a removal of trustees in view of Law No. 59 of Military Government (U.S.) has been ordered except in Wuerttemberg-Baden and there at the instigation of Mr. Zinn Garrett, Land Property Control Chief of OMGWB. I cannot object to this removal where persons have been appointed trustees who had, after 1933, acquired property from political, racial and religious persecutees, such persons are not fit to hold the positions of trustees. I do not see, however, why it should be necessary to remove such persons who will regain their old property, once the restitution proceedings have been carried out. This measure works to the disadvantage of the claimants who have been appointed trustees before, because the persons liable to make restitution will see and exploit in many cases their chance to deny their liability to make restitution or to obstruct the restitution of the confiscated property, a chance which is offered to them by the removal of the former trustees. This measure thus obstructs and delays the restitution considerably instead of speeding it up, as provided by the law.

- 1 -

I have been informed that influential American jurists are of the opinion that orders, such as the one issued by Mr. Garrett, are inconsistent with American laws and directives. Furthermore, Mr. Garrett has ordered that political, racial and religious persecutees have to abstain from any interference with the property, restitution of which is demanded. This order violates the interests of claimants even to a greater extent, because it provides considerable protection to the persons who have acquired property from persecutees after 1933.

The present trusteeship can be continued only where the present ~~trustee~~ (for example Jewish) trustee requests and receives a statement from the person liable to make restitution showing the latter's consent to a continuation of the present trusteeship. This means that the claimant to whom restitution must be made has to ask now the person who is liable to make restitution for a statement which puts him in a position to remain trustee. No claimant can be expected to ask the person liable to make restitution for such a statement; and this will lead to the following consequences: Either the person liable to make restitution will refuse to give such statement or he will do it under such conditions which will burden the claimant.

All these reasons show that Mr. Garrett's directive is at least inappropriate and even dangerous because it prejudices the interests of political, racial and religious persecutees. It is significant that the other Military Governments of the U.S. Zone have not issued this directive.

I would be extremely thankful, dear John, if you would undertake, without delay, everything possible to do away with this present undesirable state of affairs. All protests have been unsuccessful so far, and I think that OMGUS must act to prevent that the carrying out of a Law enacted by Military Government itself is obstructed by a subordinate office.

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DECLAS: Authority NND775057  
 Authority PPD By TJ NARA Date 7/16/99  
 By        NARA Date 7/16/99

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"My Control"

File 39

Box 12

RG 260

Records of the  
Property Division,  
OMOCS

TREATMENT OF DURESS PROPERTIES AND BRIEF REVIEW OF INTERNAL RESTITUTION PROGRAM UNDER MILITARY GOVERNMENT LAW NO. 59

Introduction

Among the most important categories of properties over which property control has been exercised from the very beginning are so-called "duress" properties. Even prior to the surrender of Germany, it was the announced policy of the United States Government to take appropriate steps for the safeguarding of properties which had been expropriated by National Socialist persecution from their former owners.

This policy was clearly restated in the Directive on U.S. Objectives and Basic Policies in Germany, of 15 July 1947, (MCR-23-2050) <sup>1/</sup> which reads as follows:

"It is the policy of your (i.e. American) government that persons and organizations deprived of their property as a result of National Socialist persecution should either have their property returned or be compensated therefor and that persons who suffered personal damage or injury through National Socialist persecution should receive indemnification in German currency. With respect to heirless and unclaimed property subject to internal restitution you will designate appropriate successor organizations."

Administration of Property Control Over Duress Properties

In execution of the above-mentioned policy, Military Government from the beginning has directed control of all properties expropriated or confiscated under circumstances indicating duress. Such control was imposed on the basis of lists of properties compiled in some cases even prior to the surrender of Germany, or as disclosed by field investigations, or made known to Property Control Agencies in the U.S. Zone through communications from former owners, or their successors in interest. Reports required by Military Government from present owners, German governmental agencies, and financial and credit institutions, with respect to properties presumptively expropriated or confiscated under discriminatory measures of National Socialism (persecutory actions for racial or political reasons) were screened, and also resulted in exercise of property control action.

<sup>1/</sup> See Annex

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Property control action was taken on the basis of Section 2, Article I of Military Government Law No. 52 1/ (Revised Text, 20 July 1945) which provided as follows:

"Property which has been the subject of transfer under duress, wrongful acts of confiscation, dispossession or spoliation, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise, is hereby declared to be equally subject to seizure of possession or title, direction, management, supervision or otherwise being taken into control by Military Government."

Blocking control was applied to savings bank deposits, accounts, funds, securities and other negotiable interests on the same basis.

Custodians appointed by Military Government, or German Property Control Agencies under the direct supervision of Military Government, were charged with the administration of properties under prescribed conditions and requirements for accounting and auditing reports intended to assure adequate safeguarding controls. The control and influence of present owners over the administration of the properties or enterprises were wholly excluded as a matter of principle and policy. All custodians of controlled properties were only appointed on the basis of exemption or clearance under various de-nazification regulations which became generally applicable.

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The 15 August 1945 Directive 2/, for example, extended the denazification provisions of the 7 July 1945 Directive 3/ to influential Nazis and militarists in all walks of life and authorized control action over the properties of all persons removed or designated hostile to Allied purposes. The latter were deemed to be included in the class of persons whose properties were rendered subject to seizure or control by Military Government pursuant to General Order No. 1, issued under Military Government Law No. 52

The Law for Liberation from National Socialism and Militarism 4/, enacted by the German Land Governments in the U.S. Zone to replace the 15 August 1945 Directive, has continued German responsibility for denazification in accordance with principles established by Control Council Directive No. 24 5/, and is still applicable as property control policy.

The consistent policy of Military Government has been to retain properties

1/ See Annex

4/ See Annex

2/ See Annex

5/ See Annex

3/ See Annex

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of a duress nature under control and to safeguard them until such time as the merits of claims for restitution could be evaluated and final disposition determined. The only exception to this policy has been in the application of MGR Title 17-501 <sup>1/</sup> which authorizes the release of properties of insignificant value, if said properties could be adequately safeguarded by other means, i.e. blocking of transfer of title.

Promulgation of Military Government Law No. 59 2/

Attempts were made through negotiations on a quadripartite basis to develop a uniform program for the restitution of properties to persons and organizations deprived thereof as a result of National Socialist persecution, or, in lieu of restitution of property in kind, for adequate compensation. This proved impossible because of certain fundamental differences among the occupying powers. For the same reasons a bizonal or trizonal law could not be agreed upon. The decision was therefore reached to proceed on a unilateral basis. Over a year before the Laenderrat, representing the Laender of the U.S. Zone of Occupation, had been instructed to draft a proposed restitution law. After approximately one year of work on the part of property specialists a draft of a restitution law was submitted by the Laenderrat for Military Government approval. Certain provisions and reservations contained in this draft were deemed objectionable by Military Government and it was finally decided to promulgate a Military Government law covering the subject.

Military Government Law No. 59, enacted on 10 November 1947, follows the Laenderrat draft, with modifications or revisions of those features which had been considered objectionable.

As of the same date, 10 November 1947, the Central Filing Agency provided for in the Law was established and commenced operations at Bad Nauheim (Hesse). Subsequently and successively, Bremen, Hesse, W/Baden and Bavaria passed the necessary implementing legislation establishing restitution agencies in the respective Laender of the U.S. Zone.

1/ See Annex

2/ See Annex

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Military Government Law No. 59 <sup>1/</sup> provides for filing of petitions with the Central Filing Agency for the restitution of identifiable property. The expiration date for such filing is 31 December 1948.

With a view to securing all possible information concerning properties which had been transferred under duress circumstances, the Law also provided for the submission of reports by present owners of duress properties, or by persons or financial institutions having any information concerning transfers of property under duress circumstances.

The principle that duress properties should not escheat to the State because of the lack of heirs or successors in interest was also recognized in the Law which provided for the establishment and appointment of successor organizations. This was accomplished by Regulation No. 3 under the Law passed on 23 June 1948. On the same date the Jewish Restitution Successor Organization, representing all leading Jewish organizations of the world interested in the establishment of an adequate restitution program, was authorized by Military Government to claim all heirless and unclaimed Jewish properties.

#### Organization and Administration of Restitution Program under Military Government Law No. 59

The law provides for the establishment of restitution agencies, initially charged with the responsibility of trying to effect amicable settlements of claims between the parties. If such settlements cannot be attained, the claims are then referred to restitution chambers which are part of the German court system. Appeals from the decisions of the restitution chambers may be taken by either party, to the Appellate Courts (Oberlandesgerichte), and from the latter to the Board of Review, whose decisions are final.

The Board of Review, composed of Americans assisted by experts on German law, was established pursuant to Regulation No. 4 to Military Government Law No. 59 passed on 2 August 1948. Appointments of the members of the Board of Review were made on 3 November 1948.

There are presently twenty Restitution Agencies, thirteen Restitution Courts, and six Oberlandesgerichte (appellate) Courts - exclusive of the

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**Board of Review - in the U.S. Zone.**

The Jewish Restitution Successor Organization, established at Nuernberg, with branches located in a number of cities in the different Laender of the U.S. Zone under previous authorization given by Military Government, commenced, in the first week of October 1948, the examination of approximately 80,000 reports affecting properties presumably transferred under duress circumstances.

Information secured from these reports has provided a basis for the preparation of petitions. These petitions will be filed with the Central Filing Agency on or before 31 December 1948, the expiration date for the filing of petitions under Military Government Law No. 59, in connection with every Jewish property reportedly transferred between 30 January 1933 and 8 May 1945. The processing of the petitions will, however, be effected after that date, after determination as to whether or not such properties have been claimed by other persons or organizations.

In the middle of November 1948 authorization was issued for similar examination of the reports on file with the Central Filing Agency by accredited representatives of approximately fourteen Military Missions and Consulates of foreign nations.

Difficulties affecting the satisfactory perfection of claims arising from restrictions on remittances or payment of expenses or services of attorneys, the transmittal of information by air mail, and access to information contained in public records of various German governmental agencies, or offices, have been resolved by appropriate measures and directives issued by Military Government.

A complete reporting system, which will provide information as to the status and progress of every claim, has been devised and will shortly be placed in operation. In addition, required reports, on a current monthly basis, will provide information with respect to the over-all progress of the restitution program.

While there are still some matters which must be provided for through legislative enactment or implementation, these requirements are not necessary for present operation of the Law. Appropriate action with respect to such deficiencies as exist in the Law are presently under study, and will be

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accomplished in orderly fashion to facilitate the successful attainment of the objectives of the law.

Numerous requests for extension in the expiration date for the filing of petitions beyond 31 December 1948 have been received by Military Government. Serious consideration has been given to these requests. It has, however, been decided that any extension in the expiration date would be more detrimental to the entire program of restitution than the benefit to the comparatively few claimants would justify.

In reaching this decision, consideration was given to the many efforts of Military Government to secure publicity of the law in all the countries of the world through U.S. Consulates and Missions, and military and diplomatic missions accredited to Germany.

Other considerations were the following:

- (a) Claimants have had 13 months in which to file;
- (b) Titles to properties which may be claimed for restitution have been in a state of uncertainty for 3 1/2 years and will remain so until the final deadline for filing claims;
- (c) Modifications of the law with respect to time for filing may lead to requests from various sources to make other changes in the law;
- (d) It is desired that all possible burdens and uncertainties imposed by Military Government on the German people and economy be terminated before the Occupation Statute becomes effective.

Most of the requests for an extension in the expiration date have been based upon the argument that information considered essential to a claim was not available or accessible. This argument is not considered to be very strong, and Military Government has, on this point, consistently advised claimants that the provisions of the law are adequate, since minimum information only need be filed initially. A petition containing a description of the confiscated property and stating as exactly as possible, under the circumstances, the time, place and circumstances of the confiscation, and so far as is known to the claimant, the names and addresses of all persons having, or claiming to have, an interest in the property, if filed with the Central Filing Agency before 31 December 1948, would be sufficient to bring

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their claim within the statute of limitations. Any further information that might be required for settlement or adjudication of the claim could be submitted thereafter to the Restitution Agencies or Restitution Courts, as required.

For all of the foregoing reasons, Military Government has not granted requests for modification of the law so as to extend the expiration date for the filing of claims.

Modification of Property Control Policy Subsequent to Military Government Law No. 59

Subsequent to the enactment of Military Government Law No. 59 (10 November 1947), and after passage of a period of time considered sufficient for the dissemination of knowledge of its provisions, a further modification

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in policy was deemed advisable. By Directive, issued 15 July 1948 <sup>1/</sup>, property control action was directed thereafter only in those cases where notice of the filing of petitions under Military Government Law No. 59 with the Central Filing Agency was received. A further directive, issued 3 August 1948 <sup>2/</sup>, however, authorized exercise of property control action, notwithstanding the fact that no petition had been filed with the Central Filing Agency under Military Government Law No. 59, if it appeared that irreparable damage might be done to a claimant's interests unless the property were taken into control.

Pending final disposition of claims or petitions under Military Government Law No. 59, it is intended to administer properties under control as efficiently as possible and, insofar as the respective parties are concerned, in an impartial manner.

After 31 December 1948, the petitions filed under Military Government Law No. 59 will be checked against properties under control. Those found not to have been claimed, or subject to claims by any of the successor organisations, will be released from control.

#### Present Status of Restitution Program

Properties under control as of 30 November 1948 numbered 31,426.

#### Petitions received by the Central Filing Agency as of 30 November 1948

|   |               |
|---|---------------|
| Complete from claimants   | 11,187        |
| Incomplete from claimants                                       | 4,768         |
| Petitions from Jewish Restitution Successor Organisation (JRSO) | 70,000        |
| Additional, expected from JRSO                                  | <u>30,000</u> |
| Total   | 115,955       |

#### Reports received at Central Filing Agency as of 30 November 1948

|                                     |              |
|-------------------------------------|--------------|
| Complete reports from individuals   | 63,271       |
| Incomplete reports from individuals | 7,823        |
| Reports from banks                  | 15,000       |
| Reports from agencies               | <u>1,500</u> |
| Total                               | 87,594       |

#### Restitution in Berlin and British and French Zones

Military Government Law No. 59 is, at present, not applicable to the U. S. Sector of Berlin.

Although considerable time and effort has been devoted to the matter

1/ See Annex

2/ See Annex

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Property Div.

Box 13

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# Folder : Property Problems/Problems

## PROPERTY CONTROL PROBLEMS STILL REQUIRING ATTENTION

File 13

### I. Absentee-owned Property:

(a) 3,048 properties were still under control on 30 June. Their release, by transfer to custodians in absentia or former agents of the owners, by permitting export in certain cases, or by sale in Germany, although progressing, must be completed. It is estimated that about 80% of these properties will have been released in 60 days.

(b) Movable Goods - The new JEMA program for export, without payment, of certain UN pre-capitulation contract property may affect as many as 250 properties. Notices are being sent to owners who may be affected, advising of the program. The properties must be turned over to custodians or sold by STEG if not exported under this program, or released to owners' agents. About 60 days will be required in most cases to determine disposition to be made by Property Control.

(c) Polish Property - About 250 properties, subject to a Reich Law confiscating all Polish properties, are still under Property Control. In some cases confiscation was not carried through on the Land Title Register. Polish owner thus still appears in Grundbuch. An MG Law is being proposed to make these properties available to the Polish owners.

(d) Hungarian Property - Approximately 700 of the absentee-owned properties are Hungarian-owned or claimed. A decision is expected from Washington concerning final rule for disposition. Release expected to require one to two months time thereafter.

(e) It is planned to advise owners of the disposition made of their properties, when they are turned over to custodians in absentia; and where they have been sold by STEG, to advise the names of banks where proceeds are held for owner.

### II. Duress Property:

(a) About 50,000 properties are now under control. More are expected as a result of Berlin legislation on Restitution. Release cannot be effected until cases are settled.

(b) 42 Restitution courts, agencies and offices in the US Zone will require supervision. 218,000 claims have been filed. About 2,400 have been disposed of. Supervision over the system during the period of settlement of the balance will be necessary. Policy directives must be issued as they become necessary. The reporting system is being revised to facilitate more rapid reporting.

(c) The Central Filing Agency (office of record for Restitution claims) must be closed down, except as an archives office. Closing is planned by Fall of this year.

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(d) Coordination of tripartite Restitution legislation will be necessary. An interzonal procedure must be developed to facilitate the honoring of judgments and settlements on an interzonal basis.

(e) Decisions must be made as to the disposition of art and cultural property in the Collection Points at Munich and Wiesbaden. Conflicting interests, such as the Jewish Restitution Successor Organization, the Austrian and French Governments, and possible German claims, must be resolved.

#### III. Nazi Organization Property:

Of 546 properties still under control, which were formerly owned by Nazi military and para-military organizations, 340 are in Berlin and must be disposed of under MG supervision, by a German commission recently appointed by the Kommandatura. The commission has not yet begun to make actual dispositions of the property. Prodding will be necessary.

#### IV. Reich and State-owned Property:

Most of these properties have been disposed of under MG Law 19. Remaining ones are in the group excepted from operation of the Law, such as the coal, film, and cultural and archival properties. Disposition of the latter will require further implementation. The coal and film properties can be disposed of if existing plans and legislation materialize in the near future.

#### V. External Assets:

(a) Temporary continuation of investigations to establish documentation of German ownership or control of assets in foreign countries was ordered by the Department of the Army in April 1949, at the request of the State Department, SCAP, and the Inter-Allied Reparation Agency at Brussels.

(b) The Investigations Section, now consisting of 4 Americans, including 1 US Secretary, has 76 cases awaiting action. About one half are considered as important. The remainder are of sufficient importance to warrant attention when they can be fitted into field trips scheduled in connection with larger investigations.

(c) Normally, the number of cases received for investigation and the number of completed monthly approximates 20 to 25. The Section's backlog has been reduced from 93 on 1 January to the present 76.

(d) The assets the existence of which has been proved by these investigations are not always susceptible of monetary valuation, since they sometimes involve such intangibles as licensing agreements, shares without stated valuation, ownership participation in foreign enterprises, etc. However, those which are capable of monetary valuation

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have, during the first half of 1949 had an average value of \$ 500,000 monthly. They are subject to liquidation for reparations or elimination of German control.

VI. Berlin Situation:

(a) Considerable attention will be required for the balance of this year. The majority of the properties still under control (excluding duress properties) are in Berlin, where actions are retarded by the need of tripartite agreement. However, the 1,000 properties owned by persons awaiting denazification will shortly be taken over by the Magistrate pursuant to a Kommandatura Order.

(b) The new Berlin Restitution Order will require considerable supervisory attention and implementation.

VII. General Matters:

(a) It will be necessary to supervise the new German Property Control Agency, functioning under Property Group in the US Zone over an extended period.

(b) Matters concerning tripartite coordination of property policy and procedure will continue to require attention.

(c) Complaints and inquiries of other than routine nature must be handled by American personnel. Examples are complaints from Congressmen, unsatisfied complaints of absentee property owners, etc.

Twenty US personnel, including professional and clerical, are engaged in the foregoing functions, and are presently utilized in Berlin and the Zone.

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Enclosure # 2

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)  
Office of the Military Governor  
Berlin, Germany  
APO 742

AG 010.6 (FD)

12 January 1949

SUBJECT: Administrative Requirements for Proper Execution of Military Government Law No. 59 (Restitution of Identifiable Property)

To: Directors, Office of Military Government for Bavaria  
Office of Military Government for Hesse  
Office of Military Government for Württemberg-Baden  
Office of Military Government for Bremen

1. Announcement has been made that one of the objectives and basic policies of the United States Government in the occupation of Germany, is that persons and organizations deprived of their property as a result of National-Socialist persecution should either have their property returned or be compensated therefor and that persons who suffered personal damage or injury through National-Socialist persecution should receive indemnification in German currency.
2. Military Government Law No. 59, promulgated on 10 November 1947, and implementation thereof, is designed to accomplish the restitution of identifiable property in the execution of such United States Government objective and basic policy.
3. Certain administrative requirements and adequate financial allowances are deemed essential for the proper execution of the program for restitution as set forth above.
4. On the basis of a recent survey, deficiencies in these respects have been noted, in varying degrees, in the respective Länder of the United States Zone of Occupation in Germany.
5. Appropriate instructions will therefore be issued to the Minister Presidents to effect all necessary corrective action which will facilitate proper organization and administration of the restitution program and the speedy disposition of claims under Military Government Law No. 59.
6. Particular attention should be directed to the following matters:
  - a. Responsibility for administration and supervision should be vested in a competent administrative official.
  - b. Sufficient qualified personnel should be authorized to cope with present and future work-load incident to the execution of the restitution programs in Land Central Offices, Restitution Agencies, and Restitution Courts.
  - c. Adequacy of facilities and supplies for Land Central Offices, Restitution Agencies and Restitution Courts must be assured.

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d. Adequate budgetary allowances to meet requirements in personnel, facilities and supplies must be assured through specific financial appropriations and allocations.

7. The foregoing matters represent the present important areas in which deficiencies have been noted, which require priority in consideration and varying degree of corrective action.

8. Specific recommendations for corrective action will be submitted through functional channels by Property Control and External Assets Branch, Property Division, this headquarters, which is charged with overall administrative supervision of the restitution program under Military Government Law No. 5. A representative of Property Division, this headquarters, will call upon you in the near future to discuss the entire program as it affects your Land. It is hoped that as a result of such conference specific agreement can be reached as to steps necessary to effect proper implementation, administration and exec of the program.

BY DIRECTION OF THE MILITARY GOVERNMENT



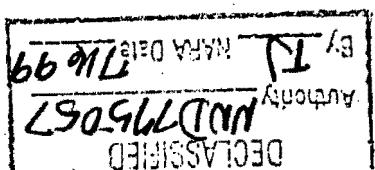
G. H. GARDE

Lieutenant Colonel, AGD

Colonel General

Telephone BERLIN 4363

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"Resümme"  
Chambers  
File 13  
COPY

Tel: Frankfurt 21165.

5th April 1948.

Ref: CAI/Sec/70/3.

To: Joint Secretariat  
Bipartite Control Office  
FUCHS Building,Subject: Regulation of Restitution Problems

Reference BICO/Sec(1.2) 145 and CAI/Sec/70/3 dated 23rd March 1948 on the above subject. The views of Property Division, Restitution Branch, Office of Military Government for Germany (U.S.) have been received on this matter, and are forwarded to you hereunder for your information:-

The problem of restitution in the U.S. Zone remains a responsibility of the United States Government, which responsibility has been delegated to the Zone Commander for implementation. Restitution proceeds pursuant to quadripartite agreed restitution policy and specific directives issued by U.S. Government for zonal implementation. For these reasons it was not deemed advisable to merge the restitution functions of the combined area. There exists, nevertheless, close coordination between the British and U.S. restitution services and it is considered that no really basic differences exist in the restitution policies of these zones.

With respect to the specific points raised in the BICO Appendix A we wish to point out:

a) German property, taken by the Germans from Germany to an occupied country, which remained under German control in the occupied country and which, in its original form, was thereafter taken back to Germany is not being restituted.

b) The statements made by Dr. Strauss in connection with the London Declaration are the expressions of opinion.

c) With respect to the acquisitions of property through normal trade transactions, Dr. Strauss again expresses an opinion as to what constitutes such transactions, as opposed to dispossession, which opinion has frequently been expressed by German holders of property and which represents a rationalization to justify retention of property, in fact, looted from occupied countries.

Concerning the alleged lack of lucidity and uniformity in restitution policy, it is considered that interested German companies and agencies have been fully informed as to restitution policies and procedures in the U.S. Zone. Such problems as they may have can be clarified by recourse to the restitution Branches established in the Laender. We wish to stress that each claim is considered on an individual basis, interpreted in the light of established policy. Analogies between individual cases can be drawn only when the facts in each case are identical.

Finally, with respect to planning future losses to the German economy, it is to be anticipated that such property as was wrongfully removed from occupied areas will be restituted. It is considered that German holders of property originating from occupied areas are in as good a position as this office to judge, in advance, as to the restitutability of such property, since the circumstances of acquisition of this property are usually well known to them."

Signed: L. E. SPENCER  
Chief  
Commerce & Industry Group

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VERWALTUNG FÜR WIRTSCHAFT  
des  
Vereinigten Wirtschaftsgebiets

Frankfort/Main-Höchst, 3 Feb.48.  
McNair Barracks  
Tel. 13961, App. 714  
Dr. K/T.

Akt.Z. -Tgb.No.73/48.

To:

The Bipartite Control Office,  
Frankfurt/Main  
Reichsbankgebäude

Subject: Regulation of Restitution Problems.

According to the statements made by the responsible British and US statesmen the reparation problem, anyhow insofar as Great Britain and the USA are concerned, was definitely settled by the publication of the dismantling list dated 16/10/47. Heavy as the encroachments on German economy as a result of the envisaged dismantlings may be, at least in regard to reparations the extent of the seizures asked from German economy has been made clear. This should according to statements of the Allied side enable German industry to plan production without the fear of losing important machinery and other equipment by seizures of the Occupation Authorities. Unfortunately, this security, the aim aspired by the publication of the dismantling list of 16/10/47, was only realised to a very small extent since also by restitution measures most essential means of production are currently withdrawn from German economy, the extent of this latter action being as yet completely unknown.

policy conflict

Pursuant to the London statement of the Allied Powers dated 5/1/45 all transfers of property to Germans carried through during the war in the countries occupied by Germany are to be considered invalid no matter whether the transfer took the form of an apparently legal transaction or obvious pilfering was in question. Based on this statement, the Control Council by resolution of 21/1/46 established a policy according to which practically all items brought to Germany during the war from the occupied territories are liable to restitution regardless of the kind of acquisition. The distinction set forth in the resolution of the Control Council dated 21/1/46 and the US Mil. Gov. Regulations Title 19 Nos. 19-104 as to whether or not the German title was acquired by force, are only of importance with reference to a claim being ranked as restitution or reparation. It is of no concern however, for the German holder of the property against whom the restitution claim is asserted.

From the procedure so far exercised by the Occupying Authorities it has occasionally shown to be essential for the German proprietor only whether or not the property seized for restitutions, provided it was not acquired by force, will be indispensable for the minimum of industry conceded to Germany. Clear provisions to this effect are, however, as yet completely missing.

In default of legal provisions regarding restitution problems in the US Zone property of clearly German origin evacuated to the occupied territories for reasons of air raids and then returned has hitherto been made liable to restitution. Furthermore details of procedure adhered to by the Allied Restitution Authorities are lacking uniformity and lucidity. Sometimes, the evidence produced from the German side that an item claimed

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