

Mr. Hartysch

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U. S.)
 Property Division
 Property Control and External Assets Branch
 APO 633
 Wiesbaden, Germany

PC Cir No 1

3 January 1949

ADMINISTRATIVE REQUIREMENTS FOR PROPER EXECUTION
OF MILITARY GOVERNMENT LAW NO. 59
(RESTITUTION OF IDENTIFIABLE PROPERTY)

1. Reference is made to PC Circular No. 2, dated 15 July 1948; PC Circular No. 3, dated 3 August 1948; and PC Circular No. 5, dated 24 September 1948.

2. Information received by this office indicates diversity in interpretation and practise in the respective Laender of the foregoing circulars and MGR Title 17-501. It is the purpose of this circular, therefore, to confirm verbal clarification of same as given by this office to United States and German officials of Property Control and Restitution Agencies at recent conferences.

3. Imposition of "Automatic Control"

a. Except for the exemption provided in MGR Title 17-501 with respect to properties of insignificant value, or where the nature of the property is such that it can be adequately safeguarded and administered through blocking control, property control action will be taken in every case where notice is received that a petition has been filed pursuant to Military Government Law No. 59, if the property which is the subject of such claim is not already under control.

b. Land Civilian Agency Heads will issue appropriate instructions to Civilian Agency Heads and all German Property Control personnel to refrain from any evaluation or determination as to the merits of any claim in exercising property control action. Such determination is exclusively within the competency of the Restitution Agencies and Courts.

c. The reason for control stated in PC 2 will be given as Military Government Law No. 52, Article I, Section 2 and petition filed under Military Government Law No. 59.

d. Properties presently under control in "G" category, or hereafter taken into control on the basis of petitions filed pursuant to Military Government Law No. 59,

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will be retained under property control, or remain subject to all Blocking Control regulations, until a final settlement of the claim is made by Restitution Agencies or Courts, or other competent authority.

e. No "duress" properties will be taken into custody except on the basis of petitions filed pursuant to Military Government Law No. 59. An exception to this rule will be made where a possibility exists that irreparable harm to a claimant's interests may result unless Property Control action is exercised before a petition is filed and final adjudication or settlement of a claim is made.

f. The exercise of Property Control action on the basis of filing of petitions under Military Government Law No. 59 by the Jewish Restitution Successor Organization, (or other successor organizations,) 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.

4. Exclusion of Present Holders or their Influence from Properties Placed under Control because of Presumption of Duress

a. Present owners of properties (to the extent that they are successors in interest of a presumptive duress nature), and their influence in the management or administration of Operating or Income-Producing Properties, must be excluded. Custodians appointed for properties under control shall be held personally responsible for the performance of their duties and the discharge of their responsibilities in connection with the management and administration of controlled properties, as prescribed by Property Control regulations.

b. Upon application to, and approval of, the Land Property Control Chief, a present owner (an interested party or restitutor under Military Government Law No. 59) may be continued in employment under the supervisory power of a custodian

- (1) if such employment is deemed absolutely essential in the management of a business; and
- (2) written consent to such employment has been given by a claimant or petitioner under Military Government Law No. 59.

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The Land Property Control Chiefs may, in their discretion, delegate authority for such approval to the Land Civilian Agency Heads, with or without reservations.

c. Application of the foregoing policy on exclusion of present owners of properties and their influence from Operating or Income-Producing Properties may, with the approval of the Land Property Control Chief, be suspended in cases of owners and employers of small enterprises, particularly manual trade enterprises, retail stores, farms and similar enterprises, employing less than 10 persons; or independent professions, provided they do not employ more than 2 assistants, such as clerks, nurses or similar personnel.

Moreover, present owners will not, as a matter of policy, be evicted or excluded from the occupancy of dwellings, except under provision of law and by order of competent authority.

5. Notwithstanding any exemptions stated herein, Land Property Control Chiefs, or Land Civilian Agency Heads, (if authority therefor has been delegated), may take any authorized property control action deemed appropriate or necessary for the safeguarding of property, or the protection of the rights of any party having any interest in property subject to, or already in, property control custody under the provisions of Article I, Section 2, of Military Government Law No. 52, and on the basis of the filing of a petition under Military Government Law No. 59.

Fred E. Hartzsch
FRED E. HARTZSCH
Chief

Distribution:

10 to each LPCC
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27 January 1950

SUBJECT: Report of Major Abraham S. Hyman, Acting Adviser on Jewish Affairs to the US Commands, Germany and Austria

TO: Honorable Gordon Gray, Secretary
Department of the Army
Washington, D.C.

Pursuant to plan, the Office of Adviser on Jewish Affairs was discontinued on 31 December 1949. This, therefore, will be the last report of the Office and will cover the period from 15 October to 31 December 1949.

A. Solution of DP Problem

Progress in the solution of the DP problem can be measured only in terms of resettlement. Although the emigration pace set during the first nine and a half months of 1949 was not maintained during the balance of the year, there continued to be substantial resettlement of Jewish DPs from the US Zones of occupation between 15 October and 31 December 1949.

During this period 6,743 Jewish DPs were resettled from Germany and 2,095 from Austria. Of these 1,801 migrated to Israel, 6,297 to the United States and 740 to all other countries. It is estimated that as of 31 December 1949 there were 27,500 Jewish DPs in the U.S. Zone, Germany, and 9,200 in the U.S. Zone, Austria and in the U.S. Sector of Vienna. These estimates on the residual Jewish DP population include approximately 12,000 out-of-camp Jewish DPs in the U.S. Zone, Germany and 3,000 in the U.S. Zone, Austria and in the U.S. sector of Vienna. The total number of Jewish DPs resettled from the DP countries (Germany, Austria and Italy) from the end of hostilities to 31 December 1949 was 200,000, of whom 145,000 migrated to Israel, 46,000 to the United States and 9,000 to other countries.

The chief obstacle which has stood in the way of the final solution of the Jewish DP problem has been the delay in Congressional action on the proposed amendment to the United States DP Act. Migration to Israel continues. However, there are many Jewish DPs who had planned to settle in Israel who have been discouraged from going there by reports of the grim conditions facing the new arrival in that country. When it is considered that approximately 90,000 newcomers, including women and infants are bivouaced in tents in Israel and that the prospects for adequate housing to absorb the new immigrants are for the time being rather bleak, it is not difficult to understand why people who themselves have been homeless for the past decade have ruled out Israel as a present resettlement possibility. These people and those who had originally resolved to go to the United States and who are ineligible because they arrived in the areas to which the Act is applicable after the cut-off date of 22 December 1945, have been waiting for definitive action on the pending amendment. Now that it is morally certain that the amendment will pass the early solution of the Jewish DP problem is assured.

B. Handling of Specific Issues

1. Ruling on the removal of pre-fabricated houses:

In his report of 1 November 1949 Mr. Greenstein urged a liberal

interpretation of the EUCOM directive of 27 July 1949, dealing with the removal of personal belongings by DPs leaving in group movements. The High Commissioner's disposition to implement this directive in that spirit was reflected in a recent ruling that DPs may take with them pre-fabricated houses, provided they meet the requirements of the directive; namely, are able to prove that the houses were legally acquired with funds legitimately acquired. This ruling is of particular value to the Jewish DPs leaving for Israel. It is anticipated that most of the DPs who will avail themselves of this decision will employ funds they acquire under the General Claims Law to purchase their houses.

2. Abolition of Search and Seizure Operations as Method of Law Enforcement:

On 9 November 1949 a forward step was taken when EUCOM outlawed the use of search and seizure operations in DP camps as a law enforcement device, and substituted for it the normal procedure on search and arrest as sanctioned by the Anglo-American legal tradition. The mass raids were used chiefly as a weapon against the black market offenders. Actually, no group of people in Germany were ever exempt from the temptations of the black market. Aside from this fact and the fact that the law infractions uncovered in a DP camp in the course of a mass search would have been revealed by a similar operation in any German community of comparable size, events have proven that not the employment of law enforcing agents nor the threat of their use, but the availability of consumers goods on the legitimate market is the only effective antidote against the black market.

3. Publication in German of Records of Major Nurnberg War Crimes Trials:

A project which has been abandoned and which, in my opinion, should be revived is the publication in German of the records of the major War Crimes Trials conducted at Nurnberg. I refer to the Doctors, Justices, Generals, Industrialists, Diplomats and SS cases. Our attempt to bring Germany within the democratic orbit will remain nothing more than a noble experiment unless the German people are first convinced that the losses which they lament, and for which they presently hold the Allies responsible, are the harvest of the seeds sown and cultivated by the Nazi regime. The Germans may be more readily disposed to repudiate that regime, if it were engraved on their minds that even before a single shot was fired the architects and patron saints of National Socialism had engaged in a conspiracy against civilization and that the crowning achievement of the Third Reich was the systematic and ruthless extermination of millions of innocent people, German and non-German, alike. While there may be general apathy towards this story today, the material in the Nurnberg records of trial must be readily available to such leaders in Germany who are resolved to discredit the Nazi tradition and are determined to prepare the soil in which the democratic way of life can grow in Germany.

As compared with the amount expended on the project before it was abandoned, relatively little is necessary to complete it. I have shared my views on this matter with Mr. McCloy who acknowledged the merit of the project and directed that the matter be studied.

4. Restitution - Germany:

It is with satisfaction that I report the determination of the US

High Commissioner to prevent the restitution law in effect in the US Zone, Germany, from being defeated through interminable delays in the restitution courts. In December Mr. McCloy appointed a court expediter whose sole function it will be to follow the progress of the restitution cases through the legal apparatus provided for their trial and review and to recommend procedural changes for speeding up their ultimate disposition.

Another development in the field of restitution in Germany is worth noting. On 4 November 1949 the Frei Demokratische Partei introduced a resolution in the Bundestag requesting permission of the occupation authorities to substitute a Federal restitution law for the zonal laws and to hold all restitution cases in abeyance, pending the adoption of such a law. In presenting the resolution the party spokesman urged that it was imperative to have uniformity throughout Western Germany in the field of restitution. Granted that the argument has merit, the obvious answer is that uniformity in internal restitution has, in a large measure, been achieved. The restitution laws in effect in the US Zone, in the British Zone and in the Western Sectors of Berlin are virtually identical and the French authorities are at the present time working on revisions of their zonal law to bring it in line with the others. In view of the history of our Military Government Law 59, it is reasonably certain that the Frei Demokratische Partei advanced the resolution in response to popular demand for a diluted restitution law. To disabuse those who had been relying on the prospects of a watered-down Federal law, Mr. McCloy announced on 19 December that no material change in the US restitution law was contemplated.

C. Observations on and Recommendations with Reference to Specific Issues

1. Restitution - Austria:

The basic legislation on internal restitution in Austria is the Third Restitution Law. It provides for the return of property transferred by a persecutee during the period of the Anschluss, except in those cases where the Aryanizer can affirmatively show that the transaction would have taken place in the absence of National Socialism. Following the October elections the extreme rightists of the Volkspartei introduced a measure in parliament which strikes at the very roots of the Third Restitution Law. The proposed amendments would replace the legal presumption of confiscation by the rule that restitution is mandatory only in cases where the price was inadequate or where the seller was not free to select his purchaser; would require the return of the purchase price irrespective of the seller's power of disposition over the proceeds of sale; would dispense with the provision that one of the assessors in the Restitution Chambers must be a member of a persecutee class; and would permit the review of all adjudicated cases in the light of the law as amended. The Austrian press is reputed to have thrown its full weight behind the proposed amendments.

It is, I believe, fair to state that these proposed amendments are a clear-cut attempt at the emasculation of the Third Restitution Law and that if adopted, internal restitution in Austria will become a farce. Granted there are hardships created by the law now in force. It is, however, relevant to mention that the hardships on the part of the original owners of the property escape the notice of those who advocate the changes for the reason that most of the original transferors have either emigrated or are dead; in either case, the victims of the evil which the Third Restitution Law was designed, in part, to undo. The fundamental issue is not the hardships of the person who is asked to part with property he acquired but, rather, how do the equities of that person

compare with those of the person who was victimized, or with those of his survivors. It is elementary justice that no transfer of property effected under duress should be permitted to stand. And it is crystal clear that at the time the transfers falling within the purview of the Third Restitution Law were made, there was duress, panic and terror in the very air the persecutee breathed. Transfers made under such pressure, though superficially free, cannot be deemed to be voluntary regardless of the adequacy of the consideration. This thinking is instinct in the restitution laws in force in Western Germany and in the law now in force in Austria. The adoption of the proposed amendments would be tantamount to Austria's ratification of part of the mischief the Nazis introduced into Austria. It would be most difficult to reconcile this ratification with Austria's contention that she herself was the victim of Nazi aggression.

General Keyes and his staff are keenly aware of the restitution situation in Austria and will, I am confident, in line with our basic mission in Austria, do what they can to awaken the conscience of the Austrian leaders to the implications inherent in the adoption of the proposed amendments.

It is, of course, not possible to refer to internal restitution in Austria without inviting attention to Austria's failure to this date to provide for the disposition of heirless and unclaimed property subject to restitution. This property must be made available for the use of the victims of National Socialism, under the same formula as it is disposed of in the zonal laws in Germany.

2. Equalization of War Burdens:

I share Mr. Greenstein's views that the property of those who were victimized by the Nazis should be relieved of the burdens of the Equalization of Burdens law, present and future. This is particularly applicable to the property of those who left Germany and who have not returned. These people, understandably, are unable to reconcile what happened to them, with their present liability for part of the losses sustained by those who, directly or indirectly, participated in their expropriation and expulsion.

To meet the objection that the administration of a law providing for that exemption would present insurmountable difficulties on the ground that the term "persecutees" is incapable of exact definition, the rule might be adopted that property which is subject to restitution under Military Government Law 59 (and similar laws in the other zones) should enjoy that exemption. In such cases proof of persecutee status of the owner is a necessary prerequisite to recovery and is an issue which must be formally adjudicated.

3. Anti-Semitism:

The latter part of November President Heuss and Chancellor Adenauer made elaborate statements on the question of anti-Semitism. On the eve of the Jewish New Years in September 1949 they had extended greetings to the Jews of Germany. However, for all practical purposes, their November statements represented the first uttered on the subject since the end of the war by men prominent in German political life. The statements were forthright and represent an excellent beginning. The President and Chancellor deplored the brutalities of the Nazi regime, promised to make restitution to the victims to the extent that restitution is possible, admitted that the Germans had reason to feel collectively "ashamed" for belonging to a people who had subjected the Jews to unprecedented slaughter (though rejecting the concept of "collective guilt")

and invited the German Jews to return to Germany to help in its reconstruction and to reintegrate into its economic and cultural life.

I am reasonably certain that the appeal for the return of the Jews who had migrated from Germany was genuine. Yet, assuming that this sentiment was shared by Jews everywhere, it is safe to conjecture that the appeal will fall on deaf ears. The reason is obvious. Virtually the only Jews who have been returning to Germany, and they in trickles, are the aged. They are the people who were unable to make an adjustment in the country of asylum and were drawn back to the land with which their memories are associated and where they feel at home. The Jews who were forced to flee have, in the main, nursed a deep resentment and profound disappointment that their friends and neighbors were indifferent to their plight, during the period when Hitler succeeded in mobilizing the country's sentiments against them. It would be impossible to plumb the depths of their feelings towards those who actively participated in their expulsion and in the extermination of their loved ones. Moreover, the men of ability have taken root elsewhere and it is hardly thinkable that they would return to resume their lives in an environment which is still hostile to the people of their faith. The permanent Jewish community in Germany is presently in an amorphous stage, yet to be crystallized. At best, for the Jews who left Germany this country today represents a social vacuum in which life would have little meaning.

Probably the most significant aspect of the Heuss and Adenauer statements is the press reaction to them. In the main, the press reported the statements without comment or with comments which were lukewarm. This would justify the conclusion that the issue the German leaders raised is still taboo or, what is more likely, that what they said represents their personal philosophy and not the convictions of the German people. This bears out my personal experience. In the course of my four and a half years tour of duty in Germany I met Germans who had the courage to reject anti-Semitism during the Nazi regime and Germans who, today, are outspoken protagonists for a world in which all groups, including Jews, can live in security. At this stage, however, I feel that these people are a pitifully small minority and are hardly a factor in the national psychology of the German people.

I am in complete agreement with Mr. Greenstein's observations on anti-Semitism, expressed in his report of 1 November 1949, and would merely underscore the need for our own understanding that active anti-Semitism is not only a symptom of moral rot but is a sure sign that the other evils of the Nazi regime still persist in Germany. At a conference in Heidelberg, convened on 31 July 1949 to discuss the future of German Jewry, Mr. McCloy stated that Germany's treatment of its Jews will be a barometer of its regeneration as a democratic force. I believe that this view is unassailable. In our approach to the German people we should stress the fact that it is at least as much if not more, in their own interest as it is in the interest of the Jewish people that they forsake their anti-Semitism.

C. Summary

The welfare of the Jewish DPs in Germany and Austria was the primary concern of the Adviser's Office during the four years of its existence. Having been associated with that office for the past three and a half years, I was in the position to observe the Jewish DP problem develop in the various stages through which it passed.

When the war ended it was found that only about 30,000 Jews had survived the concentration camps in Germany and Austria. The repatriation or resettlement of these would have been no major task. The real Jewish DP problem was created by the post-war influx of approximately 170,000 Jews from Poland, Rumania, Hungary, and Czechoslovakia, who fled either because of pogroms, because of fear of physical violence, because of their rejection of Communism as a way of life, and, to use their own words, because they could not live in the "graveyards" of their families and friends. It is an ironic twist of history that these people, running away from actual or potential persecution, should have come to the very country which unloosed the forces that led up to their plight. Inherent in this situation, however, was the greatest tribute to the American people. The refugees did not come to Germany; they came to receive the protection of the armed forces of the country in which they instinctively had a consummate faith. Their instincts served them well, for in the US Zones of occupation they received the care and treatment that enabled them not only to regain their health but restored in them a positive faith in themselves and in their own future.

To me it was constant source of amazement that men trained to fight could, when catapulted into positions requiring skills totally unrelated to their previous experiences, show the social vision they displayed in the handling of the many complex problems the Jewish DPs presented. Sometimes it appeared to the men on the operational level that the DPs were too great a burden and that they interfered with functions which they regarded more germane to the Army's mission in Germany and Austria. However, the men responsible for shaping and implementing American policy in Germany and Austria, Generals Eisenhower, McNarney, Clay, Huebner, Clark and Keyes and Mr. McCloy, and their immediate staffs, generated a spirit through their commands in the presence of which the impatience with the DPs was dissipated. It is to the everlasting credit of these men that they recognized that the Jewish segment of the general DP population had been Hitler's chief victims and gave these people preferential treatment when and so long as justice warranted it.

During the past three and a half years our office made many recommendations on behalf of the Jewish DPs. Almost with no exception, every request which could, within the framework of our occupation policy, be met, was readily met. Aided by UNRRA, the IRO and by the Jewish voluntary agencies, notably the American Joint Distribution Committee and the Jewish Agency for Palestine, the Army pursued a course which led to the rehabilitation of several hundred thousand lives who had all but lost faith in humanity. In so doing the US Army in Germany and Austria, in my opinion, raised its own stature as an instrument of a living democracy.

Equally deserving of praise are the Jewish DPs themselves. What happened to these people collectively has, to my knowledge, no parallel in the history of civilized men. All of them were uprooted from their homes, many were the sole survivors of their immediate families, and nearly all will, as long as they live, be tortured by the gnawing memories of children, wives, husbands, parents and other kin breathing their last before a Nazi firing squad or expiring in a sealed freight car, in a gas chamber, in a crematorium, or in a living grave. In the light of these shattering losses, which were sufficient to unbalance the most sturdy, their record in Germany and Austria, especially for the resilience they displayed, for the self-restraint they exercised, and for the will to live they demonstrated, deserves a special place of honor in the story of mankind.

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I am most grateful to the Army for permitting me to serve in the Adviser's Office and for the singular privilege of ending my tour of duty with the armed forces in a post which enabled me to experience the warmth and understanding which Mr. McCloy brought to every problem I presented to him.

ABRAHAM S. HYMAN
Major FA
Acting Adviser on Jewish Affairs

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OFFICE OF MILITARY GOVERNMENT FOR BAVARIA
 PROPERTY CONTROL & EXTERNAL ASSETS BRANCH
 DISTRICT UNTERFRANKEN
 SCHWEINFURT, GERMANY - APO 800, US ARMY

HSK/kb

28 October 1948

Information Concerning Dr. Sebastian Endres

Early

A. Higher Education and Contacts:

Sebastian Endres studied law at the Dillingen seminary thus achieving an entrée into the leading political and Catholic circles of Bavaria. While at the Dillingen seminary, he became a member of the Catholic Student Association where he came into contact and made friends with the present Bavarian CSU leader and Vice-Minister President Dr. Josef Müller, the present leader of the Bavarian Party Baumgartner, and the infamous banker and aryanizer Dr. Adolf Fischer. It is evident from the present contacts of Dr. Endres that these early friendships have lasted throughout the years and are if anything more firm than ever.

B. Occupation Following University:

Following graduation from ~~the Dillingen seminary~~ Dr. Endres practised law in Ludwigshafen being moderately successful. Shortly after Hitler's coming into power Dr. Endres purchased an estate at Rottbach by Fürstenfeldbruck for the amount of RM 90,000.-, paying first RM 15,000.- and later an additional RM 10,000.- in cash taking a mortgage for the remaining RM 65,000.-. Shortly following this transaction a Jewish husband divorced his Jewish wife and went to London with their two children. The divorced woman immediately married Dr. Endres thus bringing to him as a dowry the sum of RM 200,000.- in 1934 when money was rather short in Germany, and thus Dr. Endres was able to liquidate his debts and establish himself firmly as an estate holder in the early days of Hitler's power.

C. Private Family Life:

Because of the fact that the people of Rottbach had no inkling of the fact that the new Frau Endres was Jewish, she lived there in peace with her husband and with the party and very possibly joined the NS-Frauenschaft, as did her Jewish friend Frau Amonthe, because it was necessary for her to go before a Spruchkammer in Fürstenfeldbruck in 1947 at the same time of her husband's being tried by the Spruchkammer Munich. Dr. Endres lived apparently happily with his wife the marriage producing two children until approximately 1941 or 1942 when he divorced his wife because of her Jewish blood. Following the divorce, Frau Endres continued to live on the estate Rottbach, but she was not allowed to speak with or visit her two children nor was she allowed freedom of the house being forced to spend her time in the kitchen. In 1946, Endres remarried his former wife and she appeared as his star-wit-

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Information Concerning Dr. Sebastian Endres, dtd 28 Oct 48, cont'd.:

ness in the denazification trial against him, her testimony as a person of Jewish blood apparently bringing him into group V. As interesting background materials to this is herewith attached as annex I photostat of a letter from the custodian of the aryanized firm where Endres was manager, addressed to Endres, speaking of the background of his wife and as annex II photostat of a file note copy made by Mayer which speaks under the date of 14-8-46 of the Jewish background of Frau Endres.

D. Employment as Manager in an Aryanized Firm:

At the end of 1938, the infamous Nazi banker and friend of Dr. Endres, Dr. Adolf Fischer aryanized beside many other Jewish properties the firm Maschinenfabrik A. Michaelis GmbH by having the owner Mannheimer placed in the concentration camp Dachau until he saw the light and signed the purchase contract. As evidence of this aryantization there is attached herewith as annex III a photostat of a statement by the present custodian of the firm Theodor Mayer concerning the entire transaction. It is interesting to note at this time that another early friend of Dr. Endres, the present Vice-Minister President of Bavaria, Dr. Josef Müller was also involved in this transaction acting as lawyer for Dr. Fischer, but what he received in payment for this act is not known although it is known that an employee of the Arbeitsfront by the name Gerbecks received RM 30,000.- as a bribe.

After having taken over the factory, Dr. Adolf Fischer sent Dr. Endres into the factory as an observer which position he held for several weeks. At this time a Herr Neubauer, friend of the former owner was still factory manager as well as holding in name 20 percent of the ownership which had been given him by the Jewish owner as an attempt to protect at least some of his assets. Although Dr. Endres had no training as an engineer, after some weeks of observation he informed Herr Neubauer that Dr. Fischer had appointed him as the new manager of the company and that Herr Neubauer was thus deposed.

The first act of Endres as factory manager was to reduce the ownership in the firm held by Neubauer by 50 percent, and he then systematically and publically inconvenienced and insulted Neubauer with the obvious hope that he would resign. This Neubauer did not do because, according to him, he felt that at any cost he should remain in the firm attempting to protect the interests of the former owner. Dr. Endres after some initial difficulty became a firm and dictatorial manager brooking no interference whatsoever from any persons. The final act of Dr. Endres to clinch both his position as manager of the firm and the aryantization took place on 24 June 1941 as may be seen by the photostat herewith attached as annex XIII wherein Endres decreed that the firm Maschinenfabrik A. Michaelis GmbH, literally translated, must die and henceforth that the firm would be known as Maschinenfabrik Monachia GmbH, and about this time the former owner Mannheimer and his wife both committed suicide in Munich.

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Information Concerning Dr. Sebastian Endres, dtd 28 Oct 48, cont'd.:

To substantiate the above, Neubauer as well as any of the old employees of the factory still employed there may be contacted.

E. Interest in Gaining War Production Contracts:

With the beginning of the war Endres became a fanatic war sympathizer often visiting the Luftgaukommando OKH and Marine-kommando offering his firm's services, and in general doing everything possible to include the firm in the war effort. An indication of this allegation may be gained from the following listed photostats attached herewith; annex IV, annex V, annex VI, annex VII and annex VIII all of which are initialled by Dr. Endres.

In addition to his frantic interest in war production at home, Endres involved himself in transactions with a Holland firm, as evidenced by annex IX and with war material transactions in France as evidenced by annex X. The impression that Endres left behind him at least in Holland may be gathered from the photostat of a letter from Holland to Herr Neubauer written following the end of the war attached herewith as annex XI. Considering the above and interrogation of persons still employed in the firm leaves no doubt that Endres in fact was a fanatic war sympathizer as well as of a Nazi mind, and did anything in his power to further the war effort of the Third Reich.

A further indication of the position of Dr. Endres in the aryanized firm Michaelis GmbH may be seen from annex XII also initialled by Endres wherein he establishes positions of responsibility.

To summarize sections D and E, the undersigned feels safe to state that Dr. Endres without any question and with full knowledge made himself a partner in and furthered the aryanization of a firm the rightful property of a Jewish person, and that after becoming manager of this firm did everything in his power to convert the firm to war work, and indicated his whole-hearted support of the militaristic program of Germany. Careful questioning of any of the old employees in the firm will clearly substantiate this statement.

F. Violent Mistreatment of Slave Laborers:

Following the first victories of the Nazi Armies the firm Monachia under the management of Dr. Endres began on a large scale to employ slave laborers, and according to annex XIV Endres as early as 19 May 1941 requested radical treatment for these prisoners. From this date on the life of the French, Russian and Italian slave laborers in the firm became more and more unpleasant as may be seen from the enclosed photostats, annexes XV, XVI, XVII and XVIII.

With the coming of steady defeats in Russia and the realization that the war was probably lost, Endres began having the slave laborers in the firm beaten, starved, and brutally over-worked punishing them not only for minor mistakes but also for exhaustion.

Information Concerning Dr. Sebastian Endres, dtd 28 Oct 48, cont'd.:

To substantiate this and the above concerning the treatment of slave laborers there is enclosed herewith as annex XIX a sworn statement signed by Albert Bühlér, Joseph Schütz and Karl Gschwendtner who are still employed in the firm indicating the extent of persecution.

A further interesting statement is forwarded herewith as annex XX indicating that Dr. Endres often threw parties to the extent of bacchanalian revelries using for food and drink rations assigned for the slave laborers.

G. Remarks:

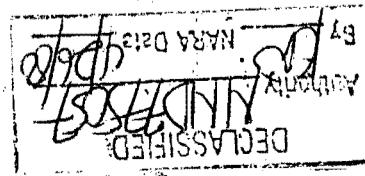
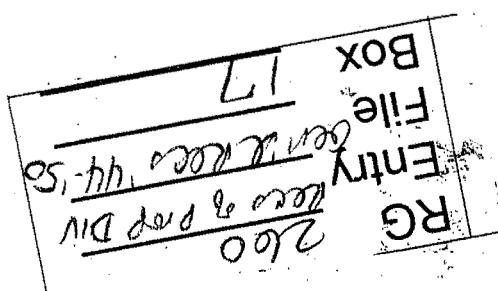
Concerning the enclosed photostatic copies the reader is herewith informed that the initialled signature appearing on annexes IV, VI, VIII, X, XII, XIII, XV, XVI, XVII and XVIII has been attested to be the initial of Dr. Endres by numerous employees of the firm. Further, the persons whose names have been mentioned in this report are still employed in the firm.

Harold S. Kidder Jr.
HAROLD S. KIDDER, JR.
Property Controller
District Unterfranken

20-Incls.: a/c

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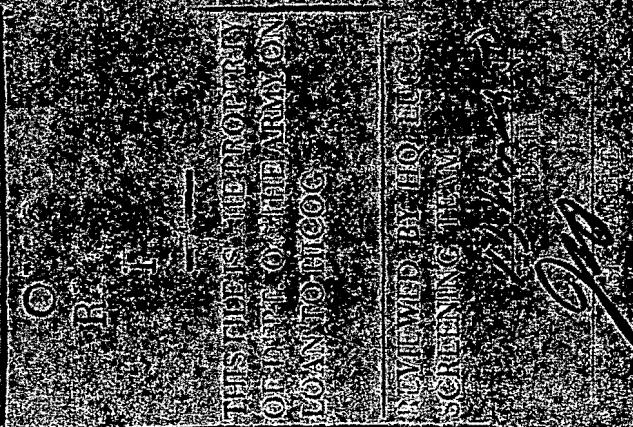


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File Endres, Dr
Box 9

ENDRES, DR



REVIEWED BY THE SCREENING TEAM

DR

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Entry Rec 45 Hrb C 201m

File for Germany
Endres, DC

Box 9

C O P Y

(3)

Dr. S. Endres
VizepräsidentMuenchen-Pullach, den 1. Sept. 1949
Schubertstrasse 6
Fernruf 793 327

An das
 Amt der Militärregierung für Bayern,
 Office of the Economics Adviser,
 Property Group,
 Internal Restitution Supervisory Team,
 Attn.: Mr. Dickerson,

M u e n c h e n
 Tegernseerlandstrasse.

Betrifft: MRG 59 - Rueckerstattungsantrag der Ilse Bissell,
 1061 Iglehart Clve. St Paul, USA gegen den Unterfertigten.
Aktenzeichen: I 94348-a39924/3500.

Zu der angezogenen Anmeldung nimmt der Unterfertigte wie folgt
 Stellung:

- 1.) In der Anmeldung ist als Verfolgte Frau Betty Maier, Mannheim, Hebelstr. 21, angegeben. Von ihr und aus der gegen sie gerichteten Verfolgung wird die Anmeldung und die damit zusammenhaengenden Ansprüche abgeleitet.

Frau Betty Maier ist die Mutter meiner Ehefrau. Sie gehört gleich meiner Ehefrau zu dem rassistisch verfolgten Personenkreis. Neben meiner Ehefrau hatte Frau Betty Maier noch zwei Töchter. Die eine Tochter war verheiratet mit Jakob Grumbacher, Mannheim, die andere mit Paul Rosenberg, Lünen/Westfalen. Jakob Grumbacher ist zusammen mit seiner Ehefrau nach Beginn des Dritten Reiches ausgewandert, und zwar zunächst nach Italien, später nach Frankreich. In Frankreich ist er dann nach dem Einmarsch der Deutschen von diesen aufgegriffen und zusammen mit seiner Familie mit Ausnahme des jüngsten Sohnes, der sich in die Schweiz retten konnte, in ein Lager nach dem Osten verbracht und dort getötet worden. Paul Rosenberg ist mit seiner Familie gläublich 1934 oder 1935 nach Amerika ausgewandert. In Deutschland verblieb zunächst Frau Betty Maier selbst und meine Ehefrau. Frau Rosenberg geb. Maier ist die Mutter der Antragstellerin und ihrer in der Anmeldung noch genannten Schwester Hanne Zimmermann. Sie ist in Amerika verstorben. Ihr Ehemann hat sich inzwischen wieder verheiratet. Welche Erbfolge in Bezug auf sie vorliegt, geht aus der Anmeldung nicht hervor. Die Rechte der Antragstellerin können jedenfalls nur über ihre Mutter, Frau Rosenberg geb. Maier, abgeleitet werden.

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Endres, DC

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- 2.) Was die Erbfolge der Frau Maier betrifft, so muessste Klar gestellt werden, ob ein Testament vorliegt, wenn nicht, welche gesetzliche Erbfolge Platz greift. Nach deutschem Recht sind jedenfalls die obengenannten drei Erbstaeemme, hervorhebend aus der Zahl der Abkoammlinge, also der drei Tochter, vorhanden. Das waeren also der Erbstamm Grumbacher, der Erbstamm Rosenberg und der Erbstamm Endres. Der den Erbstamm Grumbacher vertretende und allein uebrig gebliebene Sohn der Eheleute Grumbacher, Dr. Rudolf Grumbacher, kennt den Tatbestand und weiss, dass in dieser Sache nach MRG 59 keinerlei Ansprueche begründet sind. Er wird in wenigen Tagen von der Schweiz hierher kommen und wird dann zur Sache selbst sich erklaeren.

Der Erbstamm Rosenberg, dem die Antragstellerin angehoert, hat das, was zum Gegenstand der Anmeldung gemacht worden ist, dem Unterpfligten nie zur Kenntnis gebracht. Unterpfligter wusste auch nicht, dass sie sich zwischenzeitlich verheiratet hat und nunmehr einen anderen Namen fuhrt. Die Anmeldung mit dem Akteninhalt wurde mir am vergangenen Samstag aufgrund einer anonymen, mir ueber Herrn Dr. Auerbach zugeleiteten Mitteilung bekannt.

Der dritte Erbstamm wird vertreten von meiner Ehefrau, der einzigen ueberlebenden Tochter der Frau Betty Maier.

- 3.) Meine Ehefrau war die juengste der genannten Tochter. Ich habe sie erst 1934, also laengere Zeit nach der Machtergreifung Hitlers, geheiratet, wahrend die beiden anderen Tochter schon laengere Zeit verheiratet waren. Nachdem meine Ehefrau juedischer Abstammung war, lehnten 1934 zwei Standesamter (Ludwigshafen und Mannheim) die Trauung mit mir ab. Schliesslich konnte die Trauung in Muenchen-Pasing durchgefuehrt werden. Schon laengere Zeit vor der Trauung wurde ich in dem bekannten Hetzblatt "Der Stuermer" aufs gemeinste angegriffen. Am Hochzeitstag wurde ich telegrafisch vom Verein der Anwaelte ausgeschlossen. Meine Rechtsanwaltskanzlei wurde mit grossen Plakaten als Judenkanzlei bezeichnet. Als ich nach der Eheschließung in meine Praxisraeume zurueckkam, musste ich feststellen, dass auch dort im Wartezimmer die gleichen Plakate angebracht wurden. SA-Streifen haben jeweils nachmittags Parteien aus dem Wartezimmer vertrieben und sie ebenfalls diffamiert. Es war unter diesen Umstaenden sehr bald klar, dass eine Fortfuehrung meiner beruflichen Taeitigkeit in Ludwigshafen unmoeglich wurde. Der Wegzug war die zwangslaeufige Folge. Das Hetzblatt "Der Stuermer" verfolgte mich laufend. Es war schwierig, einen geeigneten Wohnsitz zu bekommen. Nach dreimaligem Umzug gelang es mir schliesslich, ebenfalls mit Hilfe von Freunden, in Pullach unterzukommen, wo ich heute noch wohne. Bis 1939 fand ich kein berufliches Unterkommen mehr.

- 4.) Frau Betty Maier war bis 1940 in Deutschland. Sie wurde ueber Nacht in das beruechtigte Pyrennen-Lager in Frankreich deportiert. Von dort kam sie 1942 nach Amerika, wo sie 1946 in einer Anstalt verstorben ist.

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File for Germany
Box Endres, OC
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- 5.) Es ist nicht klar ersichtlich, woher die Antragstellerin die von ihr gemachten Angaben genommen hat. Sie spricht von einer Vermoegenserklaerung der Frau Betty Maier nach ihrer Ankunft in Amerika im Jahre 1942 und erwähnt zunächst einen Scheck der Deutschen Bank und Diskontogesellschaft Mannheim vom 31.10.38, Nr. 126713, lautend auf RM 130.000. Diese 130.000 RM hat der Unterfertigte nie erhalten. Ich glaube, dies in wenigen Tagen auch urkundlich belegen zu koennen. Nach einer Weisung des damals vom Dritten Reich eingesetzten Reichskreditkommissars sollten von dem Vermoegen der Frau Betty Maier glaublich 150.000 RM an die Treuchtlinger Marmorwerke AG gegeben werden, eine Angelegenheit, mit der ich persoenlich nichts zu tun hatte. Jedenfalls hat Frau Betty Maier am 1.11.38 ueber mich den Treuchtlinger Marmorwerken den genannten Scheck, lautend auf RM 130.000 zukommen lassen. Dieser Scheck ist aber dann bei der Vorlage desselben bei der Deutschen Bank und Diskonto-Gesellschaft aufgrund einer Anweisung des Finanzamts Mannheim-Stadt nicht eingelöst worden. Vom Finanzamt sind letztenendes nur meines Wissens 80.000 RM an die Treuchtlinger Marmorwerke genehmigt und dann auch zur Zahlung gebracht worden. Das sind die 80.000 RM, die in der Anlage zur Anmeldung erwähnt sind. Diese 80.000 RM hat Frau Betty Maier gegeben. Sie hat spaeter schenkungswise, und zwar mit notariellem Vertrag, diese Forderung meinen Kindern Elisabeth und Michael je zur Haelfte abgetreten, mit dem Vorbehalt, dass sie bis zu ihrem Lebensende den Niessbrauch an der Forderung hat und dass nach ihrem Tode an ihre Stelle in Bezug auf den Niessbrauch ihre Tochter, meine Ehefrau Erna Endres, tritt. Diese 80.000 RM sind also nicht meine Angelegenheit, sondern sie sind zunächst eine Zahlung der Frau Betty Maier an die Treuchtlinger Marmorwerke und dann aufgrund Abtretung einer Forderung meiner Kinder. Bezueglich der Aktien und sonstiger Papiere, die in der Anlage aufgefuehrt worden sind, handelt es sich offensichtlich um das bei der Deportation der Frau Betty Maier bei ihrer Bank in Mannheim liegende Depot. Dieses Depot kenne ich nicht. Ich habe 1942 einmal eine Auskunft von dieser Bank haben wollen, worauf die Bank mir mitgeteilt hat, dass hieruber das Finanzamt Mannheim verfügt und sie nicht berechtigt sei, mir Auskünfte hierüber zu geben. Dieses Depot ist wohl zugunsten des Reiches eingezogen worden, genau wie auch der Niessbrauch der Frau Maier an der Darlehensforderung Treuchtlinger Marmorwerke vom Reich eingezogen worden ist. Weder meine Kinder noch ich hatten daraus irgendwelche Nutzungen. Im Gegenteil, sowohl gegen meine Ehefrau, wie gegen mich, wurden Verfahren wegen Verletzung der mit der Judenabgabe zusammenhaengenden Bestimmungen eingeleitet. Die zustaendigen Beamtenstellen haben die Konti's gesperrt und genauestens untersucht. Ich musste glaublich rund 37.000 RM Reichsfluchtsteuer fuer meine Schwiegermutter bezahlen nachdem sie bereits nach Frankreich deportiert war.
- Die Einziehung der Judenabgabe, die ebenfalls in der Anlage mit aufgefuehrt ist, ist eine Angelegenheit des Dritten Reiches gewesen. Es ist merkwuerdig, wie die Antragstellerin auch diesen Betrag in der der Anmeldung beigegebenen Anlage auffuehrt.

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- 4 -

Es besteht kein Zweifel, dass Frau Betty Maier neben ihrem anderen Schaden auch grossen Vermoegensschaden durch das Dritte Reich erlitten hat. Dieser Schaden ist aber ein solcher, der nach dem allgemeinen Entschaedigungsgestetz geltendgemacht werden muss. Der Schaden kommt den drei eingangs erwahnten Erbstaemmen wahrscheinlich in gleicher Weise zu. Keinesfalls kann ein Anspruch nach MRG 59 geltend gemacht werden, erst recht nicht gegen mich oder gegen meine Kinder. Von meinen im Dritten Reich erlittenen Schaeden soll in dem Zusammenhang nicht die Rede sein.

Sobald die von mir nunmehr angeforderten Unterlagen vorliegen, werde ich abschliessend zu der ganzen Angelegenheit Stellung nehmen.

gez. Dr. Endres
(Dr. Seb. Endres)
Vizepraesident

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Authority NND968005

By NR NARA Date 01

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File For Germany Endres, DC

Box 9

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(1)

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

Office of the Economics Adviser

Property Group

APO 407-A

Munich, Germany

30 August 1949

SUBJECT: Complaint of Mr. Jacobsohn against Dr. Endres,
Head of the Land Central Office.

TO : Office of Military Government for Germany (U.S.)
Office of the Economics Adviser,
Property Group,
Bad Nauheim, Germany.
APO 407, U.S. Army.

Attention: Chief, Internal Restitution Supervision Section.

1. On 26 August 1949 a Mr. JACOBSON, American citizen, called at this office. He identified himself by his American passport # 111551, and stated that his only reason for coming to Military Government was to try and shield Military Government from criticism and embarrassment which were sure to come if Dr. ENDRES remained as head of the Restitution Authorities. Mr. JACOBSON informed this office that he was a very close friend of Dr. AUERBACH, and that he had just come from a conference with that gentleman. According to Mr. JACOBSON, Dr. AUERBACH is very much concerned about the activities and background of Dr. ENDRES and his assistant, Dr. BEYER. Dr. AUERBACH felt that something should be done to correct the situation, and that, possibly, making public certain information about Dr. ENDRES and Dr. BEYER would be the only solution. Mr. JACOBSON asked Dr. AUERBACH to let him place this information in the hands of Military Government and let them take the necessary action.

2. Dr. ENDRES' activities in the firm Michaelis G.m.b.H., as reported to Property Division by this office under cover of letter, dated 8 April 1949, subject: "Report on Background of Dr. Endres", was again brought up by Mr. JACOBSON. He then displayed an index card on claim number I 94348-a39924/3500. This card covers property (bank accounts, shares and Judenabgabe) claimed by ILSE BISSEL of Saint Paul, Minn., and lists Dr. ENDRES as restitutor for the bank accounts and shares. Mr. JACOBSON stated that if anyone from Military Government went to the Restitution Agency and asked to see the file on this claim, they would be told that the file had been misplaced and could not be found. In short, Mr. JACOBSON inferred that Dr. ENDRES has had the file removed and is holding it until a later date.

- 1 -

'Spare Copy'

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By NR NARA Date 5/1

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Box Endres, DR
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Letter OMGUS, Office of the Economics Adviser, Property Group, Munich Germany, Subject: Complaint of Mr. Jacobsohn against Dr. Endres, Head of the Land Central Office, dated 30 August 1949 - Cont'd.

3. With respect to the index card presented by Mr. JACOBSON it has since been determined that it is the copy, or a copy of the copy normally retained by the Land Central Office, thus indicating a possible leak in Dr. ENDRES' office. Mr. JACOBSON evidently obtained this card from Dr. AUERBACH.

4. The next point brought out by Mr. JACOBSON was that Dr. BEYER, assistant to Dr. ENDRES, had been convicted under paragraph 175 of the German Criminal Code and had spent 3 years in confinement as a result thereof. The rest of his sentence had been suspended.

5. This office has been aware of the strained relationship between Dr. ENDRES and Dr. AUERBACH. On or about the 23rd of August, Dr. AUERBACH called on this office and in the course of this conversation indicated his displeasure with Dr. ENDRES. On the other hand, Dr. ENDRES has indicated that he feels that Dr. AUERBACH is taking too active a part in the Restitution Program. Based on the foregoing, this office took immediate action in this matter. A representative of this office, while conducting an inspection of the Restitution Agency Munich, was asked by the undersigned to unobtrusively find out if the file on the claim referred to in the second paragraph of this letter could be located. The file was secured without difficulty and found to be as complete as could be expected. The claim had been received from the Central Filing Agency on 12 May 1949, and was forwarded to the Restitution Agency on 30 May 1949. No further action had been taken, nor had action been taken on other claims received by the Agency during the same period. This office believes that no effort has been made to delay or cover up the claim, and that it has been handled in accordance with the existing policies.

6. Dr. ENDRES was called to this office and asked for an explanation as to why a man in his position should be named the restitutor in a claim falling under Law No. 59. Dr. ENDRES offered the following information: His wife is the daughter of BETTY MEYER, former owner of this property, and is the aunt of the claimant HISE BISSEL. When Mrs. MEYER emigrated to the United States in 1942 she left certain bank accounts and shares with Dr. ENDRES and his wife (daughter of Mrs. MEYER). Although Mrs. MEYER left the bank accounts and shares with Dr. ENDRES and his wife, they could not be touched inasmuch as they were blocked, and any disposition thereof was subject to approval of a so-called "Kredit-Kommissar". In addition, Dr. ENDRES and his wife had to pay RM 37,000. -- Reichsflychtsteuer when his mother-in-law left Germany in 1942. Dr. ENDRES further stated that the first he knew of the claim was last Friday, 26 June, when Dr. AUERBACH came to his office and told him that he had received an anonymous letter pointing out that he (Dr. ENDRES) was the restitutor named in a restitution claim. A copy of this letter is attached as inclosure #1.

*August

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Authority NND968095

By NR NARA Date 5/1

RG 466

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File For Germany Endres, DC

Box 9

Letter OMGUS, Office of the Economics Adviser, Property Group, Munich, Germany, Subject: Complaint of Mr. Jacobsohn against Dr. Endres, Head of the Land Central Office, dated 30 August 1949 - Cont'd.

7. This office is of the opinion that this is purely a family affair, considering the fact that the claim was filed by the niece of Dr. ENDRES' wife, and further, because Dr. ENDRES' wife is herself Jewish, the element of aryonation does not enter into this case.

8. Your attention is drawn to copy of letter, attached hereto, which Dr. AUERBACH alleges he received. This is the first time that this office has heard of a committee having been formed to watch over Military Government Law No. 59.

9. The foregoing is for your information and records.

GEORGE E. DICKERSON
Land Supervisor

1 Incl.: Internal Restitution Supervision Section
Cy ltr Komitee zur
Ueberwachung von MRC 59
undated (tripl)

Telephone: Munich Military 4-330

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By ND NARA Date 5/1

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Kommittee zur Ueberwachung
von MRG 59

Herrn
 Generalanwalt
 Dr. Ph. Auerbach

M u e n c h e n
 Arcisstr. 11

Unsere wachsamen Augen haben schon vor laengerer Zeit festgestellt,
 dass beim Bayer. Landesamt fuer Wiedergutmachung etwas nicht in
 Ordnung ist. Wir nehmen an, dass Sie, dem bisher unser volles
 Vertrauen galt, bis zur Stunde von der Angelegenheit nicht in-
 formiert war!

Der Herr Generalanwalt wolle daher folgenden Tatbestand zur
 Kenntnis nehmen:

Vizepräsident Dr. Endres, der sich in Ihrem Amt bester Gesundheit
 erfreut, ist nach MRG 59 Rueckerstattungspflichtiger in 2 Fällen.

Hier genügt es, nur auf einen Fall einzugehen. Der Wert dieser
 einen entzogenen Sache belief sich seinerzeit auf die Kleinig-
 keit von ca. 300,000,— RM

Der Berechtigte nach MRG 59 ist: Ilse Bisell, St. Paul 4, Minn.,
 1061 Iglehurt Ave.

So wie sich ein Kartenblatt ueber diese Ungeheuerlichkeit bei
 der IRSO befindet, so wissen wir genauestens, dass sich ein gleiches
 in Ihrem eigenen Amte befindet.

Moege unsere Annahme zu Recht bestehen, dass Sie jenes Kartenblatt
 bis zur Stunde nicht mit eigenen Augen gesehen haben.

Besuchen Sie bitte die Zentralkartei Ihres Amtes und lassen Sie sich
 das Kartenblatt mit dem Aktenzeichen I 94348 - a 39921/3500 zeigen
 und Sie werden unsre Anschuldigung in einem Falle der Entziehung
 bestaetigt finden.

Herr Generalanwalt! Wie kann ein solcher Mann in Ihrem Amt den Vizeprä-
 sidenten spielen? Laesst sich dieser Tatbestand mit dem Gesetz 59 verein-
 baren?

Wenn Sie, Herr Generalanwalt, die Zeilen zu Ende gelesen haben, werden
 auch wir befriedigt sein zu wissen, dass Sie die Verpflichtung haben,
 jenen Krebsschaden in Ihrem eigenen Amte so oder so zu entfernen. Wir er-
 warten also eine Suspendierung, die im guenstigsten Falle so lange an-
 dauert, bis die beiden Entziehungsfaelle auf dem ordentlichen Verfahrens-
 wege durchgeschlusst sind.

Unserem Vertrauen zu Ihnen und Ihrem steten Eintreten fuer die Gerechtig-

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By VR NARA Date 5/1RG 466
Entry Per US Hrb Comm
File For Germany
Box Endres, DC
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keit ist es zuzuschreiben, dass wir vorlaeufig von einer Publikation abgesehen haben, um Ihrem Namen im In- und Auslande nicht zu schaden.

Wir erwarten, dass Sie diesbezuegl. Schritte bei der hoechsten Stelle der Militaerregierung unternehmen und eine Suspendierung erwirken!

Es ist zwecklos, wenn Sie sich mit dieser Sache an die Bayer. Regierung wenden, denn Dr. Endres ist selbst der Prototyp des christl.-sozialen Parteibuchreaktionaers. Seine Beziehungen nach dort sind so ausgebaut, dass ihm lauf Gepflogenheit des Bayer. Rechtsstaates nichts passieren kann.

Wen wundert es heute noch, dass sich Dr. Endres so sehr um die Wiedergutmachung bemueht hat! Allmaehlich versteht es sich ganz von selbst, warum er zur Erreichung dieses Ziels seine juedische Ehefrau vorschicken musste, einer Frau, von der er sich waehrend des Dritten Reichs scheiden liess, damit er wie auch heute, "oben schwimmen konnte".

Es ist fuer uns unverstaendlich, dass der Herr Generalanwalt diesen brutalen, egoistischen Scheich mit seinen dienstlichen autonomen Zielen noch nicht erkannt hat. Schon frueher hat er seinen Chef Dr. Oesterle hintenherum bei der Mil. Reg. angeschwaerzt, bis er selbststaendig wurde. Uns ist auch nicht entgangen, dass er das gleiche Mittel gegen Sie anwendet. Es ist gut, dass die Gruende seiner steten Unabhaengigkeitsbestrebungen heute so einwandfrei erkennbar sind. Sein Gewissen war schon immer schlecht! Mit peinlichster Genauigkeit versteht er zu verhueten, dass ihm niemand ins Zeug sehen kann. Er hat daher auch grosse Eile, die Akten, die ihn so sehr belasten, widerrechtlich an sich zu nehmen!

Mit Dr. Endres waere es auch an der Zeit, dass sein homosexueller Gehilfe (siehe Auszug aus dem Strafregister) Dr. Beyer aus Ihrem Amt entfernt wuerde. Ein Mann, der schon gegenueber polit. Verfolgten geaussert hat, dass er zu bestimmen habe, wer pol. Verfolgter sei!

Herr Generalanwalt! Wir haben das Unsige getan - tun Sie jetzt das Ihrige.

Fuehren Sie den grossen Schlag als Zeichen der Selbstreinigung des Wiedergutmachungsamtes und bewahren Sie sich Ihren guten Ruf.

In der Hoffnung, dass wir von unserer im In- und Ausland vorbereiteten Publikation keinen Gebrauch machen muessen, erwarten wir die Tat.

Hochachtungsvoll

Das Komitee
MHR

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By VR NARA Date 5/1

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Endres, DC

Box 9

"Report on the background of Dr. Endres, Head of the Land Central Office for Restitution in Bavaria",

TAB D to

Memo "Analysis of Investigation Reports in Connection with Military Government Law No. 59 and Recommended Action" dtd 28 Apr. 49

see file "Reports, General."

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Authority NND96805

By VR

NARA Date 5/1

RG 466

Entry Ref US Hub C 00m

File For everyday
Endres, DC

Box 9

7 April 1949

MEMORANDUM re Case of Dr. Endres

The purpose of this memorandum is to cover the more important developments with regard to the case of Dr. Endres in order to keep the Endres file up to date.

Several months ago, a report concerning pre-occupation activities of Dr. Andreas Endres was submitted to this office by the Office of the Land Property Control Chief for Bavaria. The report was forwarded to this office merely by indorsement and in the original form as compiled by German Property Control investigators. The undersigned submitted this report together with a synopsis thereof to Mr. Porter for decision as to what further action should be taken in the matter.

It is understood that the report and the synopsis were taken by Mr. Hartzsch to Berlin where he and Mr. Porter discussed the matter with representatives of the Property Division. It is further understood that during these discussions it was decided that the Endres case would be turned over to the Civil Administration Division, OMGUS for determination whether Dr. Endres should be retained in, or released from, his present position.

On 23 March 1949, Mr. Kidder of the Office of the Land Property Control Chief for Bavaria visited Mr. Porter primarily for the purpose of submitting to this office several photostatic copies of statements concerning the past activities of Dr. Endres. The undersigned was present during the discussion which took place between Mr. Porter and Mr. Kidder and during which it was decided that the investigation report on Endres' past activities as compiled by the German investigators, at present in the hands of this office, could, in view of its poor style and other deficiencies, not be transmitted to the Civil Administration Division. The Office of the Land Property Control Chief for Bavaria should, therefore, submit a new report which should be compiled in such a manner as to fully comply with all standards or requirements for Military Government reports of that nature. For example, statements should be supported by proper proof; if persons make written statements and are willing to testify on the basis of such statements, the exact addresses should be furnished in order to facilitate further investigation, etc. It was also decided that this office would take no further action in the Endres case until the aforementioned report had been received.

REMARKS: Mr. Porter informed the undersigned o/a the 28th of March 1949 that the only copy of the report compiled by the German Property Control investigators is in the hands of Mr. Hartzsch who desires to keep it in the files of his office.



WERNER M. LOEWENTHAL
Chief, Field Operations

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Authority NND968005
By NRD NARA Date 5/1

RG 466
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File ^{for Germany} Endres, DC
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5A

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)
Office of the Economics Adviser
Property Group
APO 807
Bad Nauheim, Germany

13 September 1949

SUBJECT: Complaints against Restitution Officials

TO : Office of Military Government for Germany (US)
Office of the Economics Adviser
Property Group
APO 742
Berlin, Germany

1. Attached hereto as Inclosure No. 1 is a report from Mr. Dickerson, dated 30 August 1949, concerning a complaint of Mr. Jacobsohn against Dr. Endres, Head of the Land Central Office for Bavaria. Also attached, as Inclosures Nos. 2 and 3, is a copy of the letter allegedly received by Dr. Auerbach, as referred to in par. 8 of Mr. Dickerson's report, and a copy of a report from Dr. Endres in connection with the restitution claim naming him as restitutor, as referred to in par. 8 of Mr. Dickerson's letter.

2. From a study of the facts as presented, this office is inclined to agree with the view of Mr. Dickerson expressed in par. 7 of his letter. Final determination as to the actual nature of the restitution claim against Dr. Endres cannot be made, however, without hearing the claimant. It is felt that in any event the continued complaints against Dr. Endres and Dr. Beyer, which presumably originate with persons forming part of the group of claimants under Military Government Law No. 59, should be given some consideration.

3. A report on Dr. Endres' background and former activities was part of a memorandum from Property Control & External Assets Branch to Property Division, OMFGUS, dated 28 April 1949, subject: "Analysis of Investigation Reports in Connection with Military Government Law No. 59 and Recommended Action". It is understood that said report was forwarded by the Property Division to the Civil Administration Division, but as of this date no further information regarding this matter has been received by this office. Moreover, it is felt that, in view of the policy to give broader powers to the German governmental authorities, the position of Military Government in case of complaints against Restitution officials should be clearly defined.

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Authority NND968095
By NR NARA Date 5/1

RG

466

Entry Rec US High Comm
File ^{for Germany} Endres, DC
Box 9

Ltr to Prop. Group, Berlin, dtd 13 Sept. 49, subject: Complaints against Restitution Officials

- 2 -

4. We would appreciate an expression of your opinion with respect to the problems presented and will take no further action unless otherwise instructed by your office.

WERNER M. LOEMENHAL

Chief

Internal Restitution Supervision Section

Incls: a/s

Telephone: BAD SAUERBRUNN 2041, 2241
Ext. 174

327514

DECLASSIFIED

Authority

NND968095

By NR

NARA Date 5/1

RG

466

Entry Rec'd by Comm

File for permanent

Endres, DC

Box

9

1154

F-1 led

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

Office of the Economics Adviser

Berlin, Germany

APO 742

19 September 1949

SUBJECT: Complaints Against Restitution Officials

TO : Office of Military Government for Germany
 Office of the Economics Adviser
 Property Group
 APO 807, U.S. Army
 Bad Nauheim

Attn: Mr. Werner Loewenthal

1. Reference is made to your letter dated 13 September 1949, subject as above, and to the report by Mr. Dickerson, dated 30 August, concerning a complaint by Mr. Jacobsohn against Dr. Endres.

2. The report and your comments thereon are of considerable interest. It appears, however, that the present situation may be attributed at least in part to personal or political differences existing between the persons involved. In any event, based on the information presented, the allegations concerning the disappearance of a file in the case in which Dr. Endres is named as restitutor seem not to have been substantiated.

3. It is our opinion that no further action need be taken at this time and that Military Government should continue to maintain a neutral but watchful attitude in the present controversy, unless future developments indicate otherwise.

FRANK J. MILLER
 Chief, Property Group

Telephone BERLIN 43634

327515

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Authority NND968095
By VR NARA Date 5/1RG 466
Entry Rec 45 High Comm
File ^{for Germany} Endres, D.O.
Box 9

1154

1154

19 September 1949

SUBJECT: Complaints Against Restitution Officials

TO : Office of Military Government for Germany
Office of the Economics Adviser
Property Group
APO 207, U.S. Army
Bad Nauheim

Attn: Mr. Werner Loewenthal

1. Reference is made to your letter dated 13 September 1949, subject as above, and to the report by Mr. Dickerson, dated 30 August, concerning a complaint by Mr. Jacobschon against Dr. Endres.
2. The report and your comments thereon are of considerable interest. It appears, however, that the present situation may be attributed at least in part to personal or political differences existing between the persons involved. In any event, based on the information presented, the allegations concerning the disappearance of a file in the case in which Dr. Endres is named as restitutor seem not to have been substantiated.
3. It is our opinion that no further action need be taken at this time and that Military Government should continue to maintain a neutral but watchful attitude in the present controversy, unless future developments indicate otherwise.

Telephone BERLIN 43634

FRANK J. MILLER
Chief, Property Group

327516

DECLASSIFIED

Authority NND968005

By VO NARA Date 5/1

RG 466

Entry Recd by High Comm

For Germany

File Hollie vs. Schindemann

Box 9

M:
Endres

15-84

OFFICE OF THE UNITED STATES HIGH COMMISSIONER FOR GERMANY
 Office of Economic Affairs
 Property Division

Munich Germany
 APO 407-A
 12 December 1949

Mr. Werner M. Loewenthal,
 Chief, Internal Restitution Supervision Branch,
 Office of the US High Commissioner for Germany,
 Office of Economic Affairs, Property Division,
 Bad Nauheim, Germany, APO 807, US Army.

Dear Werner,

Reference is made to letter of this office, dated 7 December 1949 and concerning the interference of Dr. Endres in Property Control Administration matters. The following information (in the form of 2 letters) obtained today is forwarded as a supplement to the referenced letter.

The letter written by the restitutor Karl Schwendemann clearly indicates that Dr. Endres advised him to object to any control measures, and to refer all persons approaching him on the subject to Dr. Endres.

The second letter, written by the Civilian Agency Head Munich-Stadt to the Land Civilian Agency Head proves that property control measures were not taken initially because of complaint of Dr. Endres.

The office of the Land Civilian Agency Head has assured this office that the property at 32 Tumblingerstrasse has since been taken under control. However, it is felt that control measures were taken only because this office became interested in the matter and pointed out to the Land Civilian Agency Head

4 space copies

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Authority NND968095
By **VO** NARA Date 011RG 466
Entry Reichsluftfahrt
File ^{for Germany} Holle vs. Schwendemann
Box 9

- 2 -

that he had certain directives which he must follow, and any action of Dr. Endres to the contrary should not be allowed to interfere.

Very truly yours,

George E. Dickerson
GEORGE E. DICKERSON
Land Supervisor
Internal Restitution Supervision Br.

Inclosures:

1. File Note, CAH Office
Munich fr. Schwendemann,
dated 7 Dec 49 w/transl.
2. Cy ltr CAH Munich to LCAH,
dated 1 Dec 49 w/transl.

327518

DECLASSIFIED

Authority NND968005
By NO NARA Date 5/1RG 466
Entry Reichsluftfahrt
File for Germany
Box 9

1574

OFFICE OF THE UNITED STATES HIGH COMMISSIONER FOR GERMANY
 Office of Economic Affairs
 Property Division

Munich Germany
 APO 407-A
 7 December 1949

Mr. Werner M. Loewenthal,
 Chief, Internal Restitution Supervision Branch,
 Office of the US High Commissioner for Germany,
 Office of Economic Affairs, Property Division,
 Bad Nauheim, Germany, APO 807, US Army.

Dear Werner,

Reference is made to our telephone conversation of 2 December 1949 concerning actions of Dr. Endres affecting the administration of properties either subject to control (because of a claim having been filed) or already under control.

This office has come across veiled evidence of interference on the part of Dr. Endres, but until three days ago nothing could be proved.

On November 29 a Mr. Haas called at this office and complained that property for which his uncle had filed a claim had not been placed under control, nor had a blocking entry been made in the Grundbuch; in fact, no security measures of any kind had been taken.

Investigation by this office revealed the following facts: The property concerned is a building located at # 32 Tumblingerstrasse, Munich and was formerly owned by a Mr. Nathan Halle. On 24 December 1937 Mr. Haas, acting for his uncle Mr. Halle, sold the property to Mr. Schwendemann. On 18 April 1948 Civilian Agency Head Munich Stadt received a letter from Dr. Richard Landthaler, attorney for Mr. Schwendemann. Dr. Landthaler stated that he had been informed concerning the claim filed by Mr. Halle and expressed the opinion that the sale of the aforementioned property was not a matter covered by Law No. 59. On 28 April 1948 the Civilian Agency Head wrote to the LCAH (see Annex No. 1) attaching the letter of Dr. Landthaler and voicing the opinion that this was not a duress case. The Land Civilian Agency Head forwarded the letter to the Land Central Office for information and comments.

On 24 May 1948 the Land Central Office wrote directly to the CAH Munich (see Annex No. 2) stating that it would be advisable to

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Authority NND968005

By NR NARA Date 5/1RG 466Entry ReichsHighCommFor GermanyFile HalleVs.SchnedermannBox 9

- 2 -

abstain from any property control measures for the time being, and that the question of security measures could be decided when the claim reached his office. On 12 October 1948 the Land Central Office, in a letter directed to a Mr. Henry Wolff, attorney for Mr. Halle, (see Annex No. 3) declared that a blocking entry would be made in the Grundbuch. This, however, was never accomplished.

The claim # I 108422-a 21048/3474 was forwarded to the Land Central Office on 12 April 1949 and the Land Central Office forwarded it to the Agency on 30 May 1949.

In June 1949 the present owner encumbered the property with an 18.000,00 DM mortgage. If the blocking entry in the Grundbuch had been made as promised by Dr. Endres the mortgage would not have been executed and the value of the property would not have decreased. Since no security measures had been taken, there was no difficulty in obtaining the mortgage.

On 8 November 1949 Mr. Haas called at the office of the Land Civilian Agency Head and requested that the property be taken under control. On 9 November 1949, LCAH in a letter to the CAH Munich (Annex No. 4) ordered control of the property and appointment of a custodian. According to a statement made by Dr. Endhardt, (office of the CAH) the CAH received this letter on 11 November 1949. On 12 November 1949 Dr. Endres telephoned the CAH and objected to the control of the property. As a result of this phone call the property was not taken under control.

On 23 November 1949 the Land Central Office wrote to the Land Civilian Agency Head (see Annex No. 5), referring to his letter to the CAH dated 24 May 1948, and at the same time stating that should it be necessary to take security measures, blocking entry in the Grundbuch would be sufficient.

As a result of Mr. Haas' complaint this office investigated the matter and discovered the foregoing facts, which clearly indicate interference by Dr. Endres in matters of property control administration.

Using this case and the Merck-Finck case as concrete examples, this office pointed out to Dr. Endres where his interference in matters of property administration was causing confusion which sometimes resulted in damages to claimants, and that such interference would not be tolerated by Property Division. In this meeting with Dr. Endres, which was held on 5 December 1949 this office expressed its view point on the situation as follows:

- a. Dr. Endres is the administrative head of the Land Central Office and even though he may personally consider a claim to be worthless, only the Restitution Agencies have the authority to make such a decision, and even their decisions are subject to appeal.

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Authority NND968095

By ND NARA Date 5/1

RG 466

Entry Reichsluftfahrt Comm

For Germany

File Hoffe Vs. Schindeler et al

Box 9

1574

- 3 -

- b. Property Control Circular # 1, dated 3 January 1949, providing for automatic control is still in effect, and will be carried out. If Dr. Endres and the LCAH feel that this circular should be amended they will direct a letter containing their recommendations to Property Division. Until such time as the Circular is amended, its provisions will be enforced.
- c. The LCAH may accept recommendations from Dr. Endres as to the type of control to exercise, however, they are in no way bound to accept them.
- d. Dr. Endres' recommendations will be directed to the LCAH and not to the CAH or custodian, as has been done in the past.
- e. A property will not be released from control, or such other security measures as have been imposed, until a final decision has been reached which definitely disposes of the claim, and which can not be appealed.
- f. Dr. Endres will confine himself to administration problems of the Restitution Agencies and will not interfere with the administration of property control.

The aforementioned points as discussed with Dr. Endres will be confirmed to him by letter, a copy of which will be forwarded to your office.

Very truly yours,

George E. Dickerson
 GEORGE E. DICKERSON
 Land Supervisor
 Internal Restitution Supervision Br.

Inclosures:

1. Cy letter CAH Munich
dtd 28 April 48
2. Cy ltr LCAH to CAH Munich
dated 24 May 1948
3. Cy ltr LCO to Henry Wolff
dtd 12 October 1948
4. Cy LCAH to CAH Munich
dtd 9 November 1949
5. Cy ltr LCO to LCAH,
dtd 23 November 1949

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Authority NND968005
By VR NARA Date 5/1

RG 466

Entry Reichstag Comm

For Germany

File Halle Vs. Schindemann

Box 9

COPY FROM COPY

28 April 1948

TO:

Bayer.Landesamt fuer Vermoegens-
verwaltung und Wiedergutmachung

Munich

Prinzregentenplatz 16

Dr. Em/Ka.

Subject: Rest.claim of Nathan Halle for premises Tumblingerstr. 32,
Munich, and Kartonagenfabrik Halle-Scharff.

Re : Ltr dtd 8 April 48 (II D 5/715/48/Kae/De.)

Pursuant to the statements of the attorney of firm Schwendemann, Dr. Landthaler, Nathan Halle has been partner of the Kartonagen-fabrik Halle-Scharff, which was operated in the factory-spaces of the real estate Tumblingerstr. 32. Halle allegedly returned to USA still prior to 1933 and ceded his share in the Kartonagenfabrik to his nephew Dr. Ernst Haas. Haas has been sole personally liable partner of firm Halle-Scharff, after the retirement of the last partner of the firm, Mr. Walter Scharff. The wife, Grete-Lotte Haas, has been participated as sleeping partner. This status of the matter can also be seen from the deed of contract on the purchase agreement, which was concluded on 1 Mar 1936 between Dr. Haas and his wife for the one part and firm Schwendemann on the other part. Halle was no more interested in the firm at the time of the conclusion of the sale. The entitled individual did not file a restitution claim until now. In material respect the purchaser is claiming that Mr. Halle was negotiating for a sale with several interested individuals already in 1932 and had offered the enterprise in fall 1932 also to firm Schwendemann. The selling negotiations did not come to any agreement at that time, since firm Schwendemann refused to assume the obsolete machinery equipment. Firm Halle-Scharff has allegedly sold them elsewhere, the major part of the machinery within the next 3 years, thereof also the most valuable pieces of the entire stock. First on 1 Mar 36 the selling negotiations of Dr. Haas with firm Schwendemann resulted in the conclusion of above mentioned sales contract. The real estate Tumblingerstr. 32 with apartment-house and factory building remained property of Nathan Halle. Since firm Schwendemann had moved into the factory spaces of the premises Tumblingerstr. 32 in March 1936 in compliance with the contract dated 1 Mar 36, the right of pre-emption on the real estate had been ordered by Mr. Halle, represented by Mr. Haas. Firm Schwendemann waived the right of pre-emption in this contract for the events that

- a) the real estate encumbered with right of pre-emption should be exchanged against a foreign real estate,

Incl. # 1

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Authority NND96806
By **VO** NARA Date 5/1RG 466
Entry Recd by High Comm
File ^{For Germany} Halle vs. Schwendemann
Box 9

- 2 -

- b) the real estate burdened with right of pre-emption should be sold to a foreigner,
- c) the premises should be sold to an inland or foreign insurance company.

The tenor of this contract which is likewise documentarily proved, reveals the loyalty of the negotiations. On 24 Dec 37 the sale of the premises Tumlingerstr. 32 was accomplished by Mr. Haas for Mr. Halle to Karl Friedrich Schwendemann at the price of RM 325.000.---. The selling person was located in America at the time of the conclusion of the contract and in possession of the American citizenship, pursuant to statement of Dr. Landthaler, the attorney of Schwendemann. The price of sale was adequate and was approved to the seller as foreign exchange foreigner for transfer to USA, through the blocked mark account. In view of these facts this office did not effect a securing of the real estate or the factory property until now.

Request for your decision as to whether or not the property of firm Schwendemann should be taken into control.

Aussenstelle Munich-Stadt,
By order:

sgd: Dr. Emhardt
(Dr. Emhardt)

U/B

327523

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Authority NND968095
By VO NARA Date 5/1RG 466
Entry ReichsHochComm
for Germany
File HalleVs.Schnenderam
Box 9

1574

COPY FROM COPY

Bayerisches Landesamt fuer
Vermoegensverwaltung und
Wiedergutmachung

Muenchen, den 24.5.1948

III - R 78/48

An die
ASt Muenchen-Stadt des
BLVV
M u e n c h e n 2
Blumenstr. 31

Betreff: Rueckerstattungsanspruch des
Nathan H a l l e auf Anwesen Tumblinger-
str. 32 in Muenchen und Kartonagenfabrik Halle-Scharff.

Bezug : Schreiben vom 28. April 1948 und
Eingabe des Rechtsanwalts Dr. Richard Landthaler
v. 18. April 1948.

Anlage : 1 Akt

In der Anlage werden die Akten zurueckgegeben. Zur Sache wird
bemerk't:

Der Voreigentuemer war und ist amerikanischer Staatsbuerger. Er lebt
seit 1932 wieder in Amerika. Die Frage, ob das Gesetz 59 auf den
Fall Anwendung findet oder nicht, kann vorerst dahingestellt
bleiben. Sie wied die Wiedergutmachungsorgane erst dann beschaeftigen,
wenn die Anmeldung und der Antrag im Sinne des Gesetzes Nr. 59 bei
der zustaendigen Wiedergutmachungs-Behoerde vorliegen.

Bei der Person des derzeitigen Eigentuems, bei den Umstaenden des
seinerzeitigen Verkaufs, wird die Frage einer Sicherungs- oder
Kontroll-Anordnung erst nach Eingang der Anmeldung zu entscheiden
sein. Im gegenwaertigen Augenblick duerfte von einer Sicherungs-
massnahme Abstand genommen werden koennen.

Im uebrigen wird den Ausfuehrungen der Aussenstelle Muenchen-Stadt
vom 28.4.1948 zur weiteren Begruendung dieses Standpunktes beige-
pflichtet.

Es wird Ihnen anheimgegeben, Herrn Rechtsanwalt Dr. Richard Land-
thaler entsprechend zu informieren.

Abteilung Wiedergutmachung
gez. Dr. Endres
Vizepraesident

Fuer die Richtigkeit der Abschrift:
Am 1. Dezember 1949
Aussenstelle Muenchen-Stadt.

I.A.
gez. Dr. Emhardt
(Dr. Emhardt)

Incl. # 2

327524

DECLASSIFIED

Authority NND968005
By NQ NARA Date 5/1RG 466
Entry ReckstHighComm
for Germany
File Halle vs. Schindemann
Box 9

C O P Y

Bayerisches Landesamt
für Vermögensverwaltung
und Wiedergutmachung
Land Civilian Agency Head

Muenchen 62, Brieffach 12.10.1948
Arcisstrasse 11
Tel.: 43626

Geschaeftszeichen: III R 214/48 c.

Herrn
Henry Wolff
5125 North 11th Street

Philadelphia 41, Pa.

Betreff: MRG 59; Rueckerstattungsanspruch Nathan Halle
gegen August Schwendemann.

Bezug: Ihr Schreiben vom 9.3.48.

In Beantwortung Ihres Briefes vom 9.3.48 wird nach Klaerung des Sachverhalts durch die MR vom 24.8.1948 wegen der Rueckerstattung des Anwesens Tumblingerstrasse 32 in Muenchen verfügt:

- a) als Sicherungsmassnahme hat die zustaendige Wiedergutmachungsbehörde Oberbayern sofort - und schon vor Eintreffen der Akten vom ZAA Bad Nauheim - die Eintragung eines Rueckerstattungsvermerks im Grundbuch zu veranlassen. X
- b) Weitere Sicherungsmassnahmen werden nach Eintreffen der Anmeldung vom ZAA Bad Nauheim überprüft. Eine gegenwärtige Unterkontrollnahme mit der Aufstellung eines Treuahenders bleibt ausgesetzt, da erst das Rueckerstattungsvorfahren klären kann, ob der Rueckerstattungsberechtigte tatsächlich einem Druck bei dem Verkauf ausgesetzt war. Die bisherigen Ermittlungen hatten ergeben, dass der Berechtigte zum Zeitpunkt des Verkaufes im Auslande (in USA) lebte und bereits damals die amerikanische Staatsbürgerschaft besass. Es ist daher eine besondere Prüfung im Verfahren selbst erst möglich.
- c) Unterkontrollnahme nach PC 1 ist vorzubereiten, aber erst auf Weisung der Wiedergutmachungsbehörde zu erlassen.

Abteilung Wiedergutmachung

gez.: Dr. Endres
tpd: Dr. Endres
Vizepräsident

Incl. #3

327525

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Authority NND96805By NR NARA Date 5/1RG 466
Entry ReichsHighComm
File Halle vs. Schendemann
Box 9

1574

COPY FROM COPY

Bayerisches Landesamt
fuer Vermoegensverwaltung
Muenchen

Muenchen, den 9.November 1949

II D 5/49
Wei/St.

An die

ASt M u e n c h e n - S t a d t
zu Hd. Herrn Dr. Emhardt

Betreff: Anwesen Tumblinger Str. 32, Rueckerstattungsanspruch
Nathan Halle gegen August Schwendemann u.a.

Beim BLV sprach am 8.11.49 Herr Haas aus New York in seiner Eigenschaft als Bevollmaechtigter des Herrn Nathan Halle, San Diego, 1818 6th Ave., USA vor. Herr Haas beantragte die Unterkontrollnahme des Anwesens Tumblinger Str. 32, dessen Eigentuemer

August Schwendemann 225/396
Dr. Robert Schwendemann 140/396
Anna Schwendemann 31/396

sind. Das Grundstueck ist, trotzdem es aus juedischer Hand erworben wurde, bisher nicht unter VK gestellt worden, noch war ein Sperrvermerkt im Grundbuch eingetragen. Wie Herr Haas mitteilt, haben die Eigentuemer im Laufe dieses Jahres auf dieses Anwesen eine Hypothek von ca. 18.000.- DM aufgenommen und es ist zu befuerchten, dass das Grundstueck auch noch weiterhin belastet wird. Beim BLW wird der Anspruch des Herrn Halle unter Az. I a 3474 gefuehrt. Da also ein Rueckerstattungsanspruch einwandfrei vorliegt, ist in Anwendung von MB1 48/13/II/301 Abs. 3 a) eine Sicherungsmassnahme zu verhaengen. Nach Angaben des Herrn Haas handelt es sich um ein ertragbringendes Vermoegen, da sich im Vordergebäude Mietwohnungen und im Rueckgebäude Geschaeftsraeume befinden. Es muss somit VK 2 verhaengt und ein Treuhaender bestellt werden.

Es ist besonders dafuer zu sorgen, dass keine weitere Belastung des Grundstueckes vorgenommen wird.

IN VERTRETUNG:

(Dr. Fritz Kuhn)

Incl. # 4

327526

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Authority NND968075

By NO NARA Date 5/1

RG 466
 Entry Rec'd US High Comm
 File Holle vs. Schwendemann
 Box 9

D R A F T

Mr. Frank J. Miller,
 Chief, Property Division, Office of Economic Affairs,
 Office of the US High Commissioner for Germany,
 Frankfurt, Germany, APO 757, U.S. Army.

Dear Mr. Miller,

Reference is made to letter of Mr. Otto Mielziner, dated 4 January 1950 and addressed to Mr. John J. McCloy, U.S. High Commissioner for Germany. The letter is in regard to what is termed by Mr. Mielziner as "unjustified application of Military Government Law No. 59" to property located at # 32 Tumblingerstrasse, Munich, and specifically protests against property control custody assumed over the property by the Bayerisches Landesamt fuer Vermoegensverwaltung und Wiedergutmachung. This letter gives several reasons why the property should not have been placed under control, and why it is not subject to restitution under the provisions of Military Government Law No. 59.

The Land Supervisor, upon being so instructed, investigated this matter and reported the following:

- a. A claim for restitution under the provisions of MG Law No. 59 was filed with the Central Filing Agency, Bad Nauheim, by Mr. Nathan Halle. This claim was transmitted by that office to the Land Central Office on 12 April 1949, and, after having been registered there, was sent on to the Restitution Agency Munich where it was received on 30 May 1949.
- b. On 8 November 1949 Mr. Haas, a nephew of the claimant, called at the office of the Land Civilian Agency Head, complaining that no measures whatsoever had been taken to safeguard the property, and that in consequence thereof of Mr. Schwendemann, the present owner, had succeeded in securing a mortgage of DM 18.000.- for the property.
- c. As a result of this complaint the LCAH, on 9 November 1949, directed the CAH Munich-Stadt to place the property under formal property control custody and to appoint a custodian therefor. (See Annex # 1.)
- d. When, on 29 November 1949, these instructions had still not been complied with, Mr. Haas complained to the Land Supervisor, who after investigating the matter called the attention of the LCAH to the fact that Property Control Circular # 1, dated 3 January 1949, ordering automatic control over

Extra copy

327527

DECLASSIFIED

Authority NND968005

By VR

NARA Date 5/1

RG 466

Entry Reich High Comm

for Germany

File Halle Vs. Schinderman

Box 9

- 2 -

properties claimed under the provisions of MG Law 59, was still in effect. Further, the fact that the CAH had failed to execute the LCAH's order of 9 November 1949 was pointed out to the latter office. The property was then immediately placed under control, and a custodian therefor was nominated.

The action taken by the German authorities was entirely correct (though somewhat delayed) and was in accordance with current directives, issued by Property Division. (PC Circular No. 1, dated 3 January 1949). Under these directives, control over property claimed under Law No. 59 must automatically be taken, regardless of whether or not the claim appears to be justified, a matter to be decided by the Restitution Authorities only. This directive further provides that no such property may be released from control prior to a final decision in the case, rendered by the Restitution Authorities. Therefore, corrective action as requested by Mr. Mielziener is not warranted, and the present status of the property must continue if present directives are to be followed.

327528

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Authority MND968095
By VO NARA Date 5/1RG 466
Entry ReichsHighComm
for Germany
File Halle vs. Schneidermann
Box 9

189

Office of the Executive Secretary
ATO 757Frankfurt, Germany
Mar 8, 1950Mr. Otto Wielziner
48 Prinzregentenstrasse
Munich 15

Dear Mr. Wielziner:

Reference is made to your letter dated January 6, 1950, addressed to the United States High Commissioner for Germany, concerning the taking into Property Control custody of real estate located at 48 Prinzregentenstrasse, Munich. The matter has been investigated since receipt of your letter.

The investigation discloses that the property has been the subject of a restitution claim, filed with the Central Filing Agency on December 23, 1948. The petition was forwarded by the Central Filing Agency to the Restitution Agency at Munich on May 29, 1949. On November 8, 1949, Mr. Maas, a nephew of the claimant, requested the Office of the Land Civilian Agency Head at Munich to take the property under control as a safeguarding measure in order to prevent the mortgaging of the property. Instructions were given, following the visit of Mr. Maas to take the property into custody.

The investigation disclosed that the direction to take the property into custody was not immediately acted upon, but was carried out on November 29, 1949.

Although the views expressed in your letter are appreciated, we consider that the action taken by the Bavarian Property Control authorities is in accordance with existing directives which provide that safeguarding measures be taken in order to protect property which is the object of a claim for restitution.

The taking of property into custody should not be viewed as an attempt to determine the validity of the claim against it. Such determinations must be made by the restitution authorities created pursuant to Military Government Law No. 59.

It is hoped that with this explanation of the reason for the taking of the property under control, you will be assured that this

P.D. Date: 17MILLER/dk
Tel: 6045/5013

Copy

327529

MAR 1, 1950 MR. LOEWENTHAL

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Authority NND968085
By VR NARA Date 5/1RG 466
Entry Reichstag Comm
File Halle vs. Schenderman
Box 9

- 2 -

action in itself does not have the effect of prejudicing any decision which might be reached by the above-mentioned Restitution Authorities, but that such action is incumbent upon the Property Control Authorities when in their own judgment the property requires the protection of custody, or when it is requested by parties to the proceedings.

Very truly yours,

ERIC G. CRATION
Staff Secretary

327530

Form HICOB-8
15 Sept 49

OFFICE OF THE U.S. HIGH COMMISSIONER FOR GERMANY

OFFICE MEMORANDUM

To: Property Division, OEA, APO 757 - Mr. Miller Date: February
From: IRSB, PD, APO 807 - Mr. Loewenthal *M.L.*
Subject: Restitution Case Halle vs. Schwendemann, Complaint of Mr. Mielziner *N.M.*

Date: February 10, 1950

Reference is made to the attached correspondence concerning a complaint addressed to Mr. John J. McCloy by Mr. Otto Mielziner with respect to property control action taken in connection with the restitution case Halle vs. Schwen- demann.

Following is the result of our investigation conducted on the basis of Dr. Nielziner's complaint:

A petition claiming restitution of the real estate, located at 32, Tumblingerstrasse, Munich, was filed with the Central Filing Agency on December 23, 1948.

The petition was received by the Restitution Agency Munich on May 30, 1949.

On November 8, 1949, Mr. Haas, a nephew of the claimant, called at the office of the LCAH Munich and complained that no safeguarding measures with respect to the property claimed by his uncle had been taken, as a result of which the present owner was able to mortgage the property in the amount of 18,000 DM.

On November 9, 1949, the LCAH directed the CAH (Munich Stadt) to take control over the property and to appoint a custodian.

On November 29, 1949, Mr. Haas complained to the Land Supervisor stating that the property had not as yet been taken into property control custody. Mr. Dickerson called this fact to the attention of the LCAH requesting that appropriate action be taken. The property was then immediately placed under control.

It appears that the German property control authorities in assuming control over the property in question have acted in accordance with existing directives, except that they should have acted earlier.

We would appreciate receiving a copy of your reply to Mr. Mielziner in order to complete our files.

Enclosures: a/s

Telephone BAD NAUHEIM 2041 and 2241
Ext. 174

IRSB: W.M. Loewenthal: 1w

327531

DECLASSIFIED

Authority NND968095
By NDA NARA Date 5/1RG 466
Entry Rec'd High Comm
for Germany
File Halle vs. Schinderman
Box 9APO 757-A, Frankfurt
Office of Economic Affairs

APR 23 1951

My dear Mr. Wolff:

This is in reply to your letter of April 12, 1951, concerning the restitution claim of Mr. Nathan Halle, San Diego, California.

We have approached Mr. Halle's German attorney, Dr. Raff, Munich, and learned from him that on April 16 the Bavarian Finance Ministry replied to his communication concerning the complaint against Dr. Endres.

According to Dr. Raff, the Finance Ministry in its reply has declined to set aside the Restitution Agency's order of December 28, 1950 referring the case to the Restitution Chamber on the grounds that the Agency, although administratively supervised by the Finance Ministry, is otherwise an independent judiciary whose decisions cannot be interfered with by the Ministry. As to the other complaints in connection with the case, the Finance Ministry indicated that it has initiated an investigation.

Dr. Raff has indicated that he is prepared to accept this explanation, that he now intends to vigorously prosecute the case in the Restitution Chamber where it is now pending, and that he will keep you informed of all future developments.

Sincerely yours,

Come back copy E:PY:IRSB



William G. Daniels
Chief, Property Division

Mr. Henry Wolff,
5125 North 11th Street,
Philadelphia 41, Pa.

E:PY:IRSB:WMLoewenthal/lw
Tel. 8150
April 23, 1951

327532

DECLASSIFIED

Authority NND968095

By VR NARA Date 5/1

RG 466

Entry Reich High Comm
File Halle vs. Schwindemann

Box 9

MICHIGAN 4-0560

HENRY WOLFF
 5125 NORTH 11TH STREET
 PHILADELPHIA 41, PA.

April 12, 1951

RECEIVED
 APR 18 1951
 PROPERTY
 DIVISION

Office of the US. High Commissioner for Germany
 Office of Economic Affairs
 Property Division
 Internal Restitution Supervision
 Frankfurt/Main - Germany

Attention Mr. Ulrich

Sirs,

I am referring to the letter of Jan. 22, 1951 directed to your office by attorney Dr. Hans Raff, Isabellestr. 29/2, Munich (Bavaria) relative to the restitution proceedings

Halle vs. Schwendemann.

Dr. Raff also forwarded to you the copy of a letter which he sent to the Bavarian Ministry of Finances requesting an investigation against Dr. Endres vice president of the Restitution Agency Oberbayern because of unfair conduct of his office (Dienstaufsichtsbeschwerde). Dr. Raff, who asked your intervention in the case, received on March 1st a phone call from Mr. Ulrich, who told him that your office will request a report in the matter from the ministry. However Dr. Raff wrote me that he had no answer as yet from the ministry nor from your office. This indicates that nothing has been done on the part of the ministry so far.

As the American adviser to the claimant, Mr. Nathan Halle, San Diego, Calif., I venture to ask you to urge the Bavarian ministry to report without delay, otherwise the claim, which represents a value of 400,000 DM, may be jeopardized.

As early as 1948 I tried to have set up property control which, however, was refused in a letter signed by Dr. Endres. Not until I requested the intervention of your branch office at Munich in 1949, a custodian was appointed. At the same time it turned out that the Bayerische Landesamt fuer Wiedergutmachung omitted the entry of the restitution claim (Rueckertattungsvermerk) into the land title register as required by military law Nr. 59, article 61 par. 4 and further that the vice president took charge himself of the particular file from which any outside inspection was barred. The vice president conducted the restitution proceedings personally in a biased

327533

DECLASSIFIED

Authority NND968005By WD NARA Date 5/1RG 466Entry Reich High Comm

for Germany

File Halle vs. SchwendemannBox 9

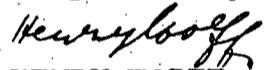
- 2 -

way, causing considerable delaying by means of petty actions and chicanery. Dr. Raff's letter gives more specified informations about these facts. The same delaying actions apparently are used now by the ministry of finance.

There is also evidence that the ministry will counteract against Dr. Raff who, in a recent letter, informed me that he learned unofficially that Dr. Endres brought an action against him to the Board of Attorneys (Anwaltskammer) at Munich ^{charging him with} for infraction of the professional code by transmitting a copy of his complaint (Dienstaufsichtsbeschwerde) against the vice president to the office of US. High Commissioner. For the protection of Dr. Raff against further aggressive acts, I beg to consider this information as confidential. The afore mentioned copy, however, was sent at the special request of Mr. Halle and myself supposing that, in view of the attitude assumed by the vice president throughout the case, any other consideration would have been a failure.

Mr. Halle, who was an American citizen until his return to Germany in 1913 and who regained his citizenship in 1942, feels that he will attain nothing without your intervention and therefore insists that all necessary steps be taken to prevent further abuse of authority by the leading official of the Restitution Agency. It is also desirable that your office supervises the further proceedings in the case Halle vs. Schwendemann to preclude any ~~XXIII~~ future encroachments on the part of this authority.

Respectfully


HENRY WOLFF

327534

DECLASSIFIED

Authority NND968005

By VR NARA Date 5/1RG 466
Entry Recklinghausen
File ^{for Germany} Halle vs. Schwendemann
Box 9

March 2, 1951

MEMORANDUM FOR THE RECORDS

SUBJECT: Restitution Case Nathan Halle vs. Schwendemann

Telephone conversation with Restitution Agency Munich of March 1, 1951.

The official handling the case, Dr. Lange, was on leave, so I talked with his deputy, Dr. Siedel. Although Dr. Siedel had not been concerned personally with the case, he was able to give some information from the files. He stated that the case had been pending before the Munich Restitution Agency from May 1949 till December 1950 when it was referred to the Restitution Chamber. Processing of the case had required lengthy negotiations with a certain Mrs. Valerie Hruska, Beneschau, near Prague, Czechoslovakia, who was holding a mortgage on the property. It had been found very difficult to locate Mrs. Hruska and after she had been found her attorney died so that the new attorney had first to familiarize himself with the matter. The files also showed that Vice President Dr. Endres had for quite some time concerned himself personally with the case and had tried to bring about an amicable settlement on the basis of an additional payment of DM 155,000.-. The two lawyers concerned had negotiated unofficially for some time in order to bring about an amicable settlement on such basis. The fact that the case had been referred to the Chamber already on December 28, 1950, although an amicable settlement hearing had been set for January 16, 1951, was explained that already on that date it had been evident that no amicable settlement would be obtained during that meeting.

LJU

E:PY:IRSB:LULrich/lw.

327535

DECLASSIFIED

Authority NND968025

By **VO** NARA Date 5/1

RG 466

Entry Rec'd High Comm

File ^{for Germany} Halle vs. Schwendemann

Box 9

March 2, 1951

MEMORANDUM FOR THE RECORDS

SUBJECT: Restitution Case Nathan Halle vs. Schwendemann

Telephone conversation with Attorney Dr. Hans Raff,
Munich, of March 1, 1951.

In reply to the question as to whether he had ever received a reply from the Ministry of Finance to his complaint dated January 22, 1951, Dr. Raff stated that he had not heard anything since from that authority. However, he had been contacted some weeks ago by Dr. Endres who had been informed unofficially of that complaint and had asked him to come to his office for talking matters over with him. During that discussion Dr. Raff had told Dr. Endres that he was prepared to withdraw his complaint if Dr. Endres would withdraw his order dated December 28, 1950 referring the case to the Chamber. Dr. Endres, however, had refused to do so giving as reason for his refusal that this was an official order which he had not issued in that specific case only but in many other cases of similar nature. Dr. Raff stated that if Dr. Endres would have accepted his offer he would have dropped his other charge raised to the effect that Dr. Endres had given incorrect information in stating that a blocking notation had been entered into the Grundbuch. Dr. Raff stated that in his opinion processing of the case had not been unduly delayed and he admitted that the amicable settlement negotiations had required very much time. He expressed the opinion that Dr. Endres had issued the order of referreal already on December 28, 1950, mainly for the purpose of saving the restitutor court costs and fees. In Dr. Raff's opinion the reason given officially for that action is not acceptable since it had been impossible at that time to foresee that the amicable settlement hearings set for January 16, 1951, would fail. Since he had been informed that Dr. Endres was on very good terms with the Ministry of Finance and that, therefore, that authority would not like to take any action against Dr. Endres, Dr. Raff stated that he would appreciate if HICOG would see to it that his complaint would be dealt with properly by the Ministry of Finance.

L.U.

E:PY:IRSB:LUlrich:lt

327536

DECLASSIFIED

Authority NND96806

By VR

NARA Date 5/1

RG 466

Entry Reichsluftfahrt

for Germany

File Halle vs. Schwendemann

Box 9

Case Halle vs. Schwendemann

Cyg 7

According to a letter from Hans Raff, Munich, representative of Halle in restitution case Halle vs. Schwendemann, addressed to the Bavarian Ministry of Finance, complaint is made that, although there was an amicable settlement hearing in the case on January 16, 1951, the Restitution Agency Munich referred the case to the Restitution Chamber by decision of December 28, 1950. Raff asserts that the Restitution Agency violated provisions of Article 63 in that the parties did not request referral of the case prior to January 16, 1951. He further asserts that on interference of Dr. Endres property control action had only been taken after a direct order of the US Land Commissioner for Bavaria (see also attached file Halle vs. Schwendemann), that for some strange reason Dr. Endres has handled the case always personally and that upon request to see the records in the absence of Dr. Endres information was given that they were not accessible because they were locked in his desk. Raff states in his letter that this was strange, since the records should be with the responsible persons in the Agency. Dr. Raff concludes that Dr. Endres is biased and is assisting the restitutor.

E:PY:IRSB:WML/Loewenthal/lw
February 28, 1951

327537

DECLASSIFIED

Authority NND968095
By NR NARA Date 5/1RG 466
Entry Reichstag Comm
for Germany
File Holle vs. Schindler et al
Box 9

CC: AJ, Mr. Hulse, HQB 640

April 26, 1951.

E: Property Division

Dr. Endres

This is in reply to your memorandum of February 27 with which you enclosed a copy of a letter, concerning Dr. Endres, dated January 19, 1951, addressed by Dr. Raff to the Bavarian Finance Ministry.

We have in the meantime received a further communication regarding this matter from Mr. Henry Wolff who is the American counterpart of Dr. Raff. A copy of that letter and a copy of our reply dated April 23, 1951 is attached.

Our reply to Mr. Wolff contains information as to the current developments in this case. We do not contemplate taking any further action in this matter.

Enclosures:

1. Letter from Henry Wolff,
dated April 12, 1951, (copy)
2. Copy of letter from this office
to Mr. Wolff, dated April 23, 1951.

COMB BACK COPY E:PY:IRSB

AKJ

E:PY:IRSB:WLoewenthal/lw
Tel. 8150

327538

RG 260
 Entry DC + External Assets
 File Jewish Displaced Person + Property
 Box 13

DECLASSIFIED

ND 775057
 ET 7J MAR 1948 SP/AV

Re: Endres

WD/mm

28 March 1948

SUBJECT: National Association of Jews in Germany
 (Reichsvereinigung deutscher Juden)

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

1. This office does not concur in the opinion expressed by the Land Civilian Agency Head of Bavaria of 9 February 1948. The reasons for this decision are as follows:

- a. The present Jewish congregations and communities in Germany are not legal entities under German public law.
- b. While the present membership, to a certain extent, is composed of former members of the congregations and communities whose property was taken over by the National Association of Jews in Germany, they, in fact, represent only a small percentage of the original members of the dissolved congregations and communities.
- c. A substantial percentage of the original membership have emigrated to foreign countries and have become residents of Allied and Neutral nations.
- d. Military Government Law No. 59 provides for the appointment of Successor Organizations to enforce the rights of such dissolved congregations and communities as have accrued to them under the Law. This policy has not yet been carried out; no Successor Organizations have been appointed, consequently no decision in an individual case will be made by this Headquarters until the provisions of the Law with respect to the appointment of Successor Organizations will be carried out.

Telephone BERLIN 42934

FRED R. HARTZOG, Chief
Property Control Branch

Filed under "Bavaria"

327539

RG 260
 Entry DC External Assets
 File Jewish Displaced Persons Property
 Box 13

DECLASSIFIED
 NND 775057
 BY T.J. HARRIS SP/AV

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)
 APO 742

Date 25 March 1948

TO: Dir. OMGB
 Attn: LPCC
 FROM: Fred E. Hartzsch, Chief
 To: Property Control Branch, PD

The LCAH in his letter of 9 Feb. 1948, made the bold suggestion to consider the National Association of Jews in Germany as the establishment of the Third Reich and consequently asked for authorization to turn over the property of all the Bavarian Hebrew congregations to the now existing congregations, under the provisions of Control Council Directive No. 50.

Attached is a draft of my negative answer with reasons for it. At your suggestion I have consulted Mr. Mason in this matter and his opinion as expressed in his Carrier Sheet of 22 March 1948 is attached.

W. J. Hartzsch
 WENDELL HARTZSCHE

327540

RG 260
 Entry DC External Assets
 File Jewish Displaced Person + Property
 Box 13

DECLASSIFIED

NND 775057

TJ MAR 12 1948

C O P Y

SUBJECT: Letter from LCAH Bavaria re National Association of Jews in Germany

No. TO FROM DATE

1 Property I. S.
 Control Mason
 Atten:
 Chief,
 Claims
 Section

22 March
 1948

1. Reference is made to the letter from Dr. Endress suggesting that the Jewish community properties taken over by the National Association of Jews in Germany should be disposed of under Article 3 of Control Council Directive No. 50 on the grounds that the National Association of Jews in Germany can be considered a Nazi organization within the meaning of Control Council Law No. 2.

2. No opinion has as yet been issued by the Legal Division, OMGUS, as to whether the National Association of Jews in Germany is a Nazi organization within the meaning of Control Council Law No. 2. However, it would appear that irrespective of its status under that Law, it would be inappropriate to dispose of the property of the Jewish Gemeinden held by it on the basis of Article 3 of Control Council Directive No. 50, in view of the specific provision of Article 8 of Directive No. 50, that the Zone Commander shall "restitute ... property of victims of Nazi persecution . . . in the same way as similar property which is not the property of any organizations referred to in Article 1 hereof". It would appear therefore that the property in question should be disposed of under provisions of Article 8 of Military Government Law No. 59, "Restitution of Identifiable Property".

3. It should be noted that the present Jewish congregations and communities in Germany are not legal entities under the German public law. While their present membership is composed, to a large extent, of former members of the Gemeinden whose property was taken over by the National Association of Jews in Germany, they in fact represent only a minor percentage of the original membership of the dissolved Gemeinden. A much larger percentage of the original membership is presently living abroad as residents of allied nations. Military Government policy has always contemplated that a single successor organization should be appointed for the community properties in question which would represent not only the interests of the present German communities but those of the surviving members of the former Gemeinden living abroad as well as those of other interested Jewish organizations. Such an organization has in fact been organized and has applied to Military Government for designation as the appropriate successor organization under Articles 8 and 10 of the Military Government Law No. 59. It is my understanding that the present German communities in the American Zone are represented on the Board of Directors of this applicant by three directors. It would thus appear inappropriate to permit the disposition suggested by Dr. Endress of the property in question until a decision has been reached on the application for designation as successor organization presently being considered by OMGUS.

Telephone 43059
 Rm 2087, Dir Bldg

Irwin S. Mason
 Advisor to General Clay
 on Internal Restitution

327541

RG a60
 Entry DC + External
 File ASSETS
 Jewish Displaced
 Person + Property
 Box 13

DECLASSIFIED

AND 775057

TJ KARABE SP/01

C O P Y

Bayerisches Landesamt
 für Vermögensverwaltung
 und Wiedergutmachung
 Land Civilian Agency Head
 Abteilung Wiedergutmachung

München 8, 9 February 1948
 Arcisstr. 11 Tel. 2175

III Aile. 4/48
Bl./Kue.

TO : Office of Military Government for Bavaria
 Land Property Control Chief,
 Attn.: Mr. LENNON
 Tegernseer Landstrasse
 M u n i c h .

SUBJECT: National Association of Jews in Germany in the
 meaning of the 10th regulation to the Reich Law of
 4 June 1939 (RGBl. I S. 1097).

The National Association of Jews in Germany is an establishment of the Third Reich. It was created by the Third Reich for the purpose to expropriate, without compensation to the Third Reich or for the purpose of the Third Reich, the Jewish property, particularly the properties of Jewish congregations and similar corporations. It was exclusively subordinated to the rulers of the Third Reich. For this reason it is to be considered equal to the remaining affiliations of a party or organization similar to a party.

The National Association of Jews in Germany, however, is not specified in the annex to CCL 2, but according to its character, its purpose, and its subordination, it also belongs to the organizations of the Party and its rulers.

Almost the entire property of the former Hebrew congregations has been taken over without compensation by this National Association of the Third Reich. The Hebrew congregations have a well founded privilege to get as soon as possible into possession of the properties they were deprived of. If the National Association of Jews in Germany is to be treated alike or similar to that of a Party organization to the immediate transfer of the property of this association to the Hebrew congregations would be possible according to CCD 50.

I request to authorize the LCAH to take action on the property of the National Association of Jews in Germany pursuant to CCD 50 and thus to satisfy the claims of Hebrew congregations.

The Hebrew congregations almost throughout have made applications according to CCD 50 and thereby expressed their favor of the above mentioned legal opinion.

For:

sgd: Dr. Endress
 tpd: Dr. ENDRESS

327542

DECLASSIFIED

Authority 968095

By KB NARA Date 4/18/49

RG 466

Entry Rec US High Com

File 27-Duress Prop's

Box 8

Endres

November 16, 1949

MEMORANDUM

SUBJECT: Release of Duress Properties from Control

During a telephone conversation between Mr. Daniels and the undersigned, this date, the undersigned informed Mr. Daniels that Dr. Endres in his capacity as single judge in an amicable settlement meeting made a formal decision to the effect that, pending final settlement of the case, custody as well as blocking restrictions over properties claimed in the Rosenthal case will be lifted.

The undersigned requested information from Mr. Daniels as to whether there were any changes in policy which would permit the property control authorities to comply with such a decision or whether the policy prohibiting releases of "G" properties prior to final decision was still in effect. In this connection the undersigned read to Mr. Daniels the letter from the Property Control & External Assets Branch to Land Property Control Chiefs, dated March 28, 1949, concerning the release of duress properties from control. With respect to par. 2c of said letter the undersigned pointed out that the language was ambiguous and may leave room for misinterpretation. The undersigned informed Mr. Daniels that he was informally advised that the Bavarian property control authorities are at present complying with decisions such as those made by Dr. Endres as referred to above, thereby prompting the release of "G" properties prior to final decisions.

Mr. Daniels requested the undersigned to take immediate action by requesting the German authorities to strictly comply with par. 2 of the aforementioned letter from the Property Control & External Assets Branch which prohibits the release of properties classified in category "G" prior to the completion of all restitution proceedings in connection therewith.

The undersigned called Mr. Dickerson and instructed him to inform the Bavarian property control authorities of this policy and to advise them that any action taken by them with respect to releases of properties prior to final decisions will be considered as an action taken in violation of existing property control directives.

W.M. Loewenthal
Chief, IRSB

327543

Procedures on
how to classify
duress props.

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

PC Cir No. 1

3 January 1947

CORRECT CLASSIFICATION OF DURESS PROPERTIES

1. Plans now being discussed for the disposition of various classes of properties under control have indicated the absolute necessity of having "duress" properties correctly classified in all Property Control records. Accordingly, it is desired that a complete review be made as soon as possible of all properties now under control, with the exception of category "G - Properties Transferred Under Duress", to identify and reclassify those "duress" properties previously classified under some other category.

2. The applicable provisions of MGR Title 17 (Revised 1 September 1946) are quoted herein for the information and guidance of all concerned:

"17-712

Assignment of Letters for Categories of Properties -
CAH's will use the following letters to designate the various categories of properties:

* * * * *

G - Properties Transferred Under Duress - (per Article I, paragraph 2 of Military Government Law No. 52). All properties inside Germany which were transferred under duress will be included under this category regardless of the nationality or citizenship of the owners or claimants.

* * * * *

Except for looted properties, CAH's will assign the letter representing the category having the highest priority in all cases where the property taken under control comes under more than one of the prescribed categories. For instance, if property of a black-listed Nazi were taken under control, the CAH would assign the letter "C" to the property and not the letter "E". In the case of looted property, however, the letters "F" or "G" will be assigned in all cases even though the property may be classified under some higher category." (underscoring supplied for emphasis.)

3. The following procedure is suggested as a guide for Civilian Agency Heads in accomplishing a complete review of properties in all categories other than "G - Properties Transferred Under Duress". However, Civilian Agency Heads will use discretion in applying this guide

327544

Box 3
File
Entry
RG abe

RG 299
 Entry Corresp. relative
to for Clayton
 File Prop. control
 Box Circulars 3

FC Cir No. 1 (cont.)

so as to conform with the local situation. Any procedures or "short-cuts" devised by Civilian Agency Heads which satisfactorily accomplish the purposes of this directive will be entirely acceptable:

a. Prepare a basic list of all properties under control, other than in the "G" category, with sufficient information to enable checking with the Grundbuch, the Handelsregister, and other sources of information.

b. Eliminate from the basic list all properties which have not been the subject of any transfer of title since 30 January 1933 (date of the Nazi Party's accession as the official German government). This can be accomplished by reference to Grundbuecher, Handelsregister and other pertinent records.

c. Further eliminate from the basic list by investigation of the Grundbuchakten, the Handelsregister and the papers filed with the Handelsregister, correspondence, and any other available source of information those properties where transfer since 30 January 1933 was clearly not made under duress.

d. The remaining properties on the list, after accomplishing the steps listed in subparagraph a. through c., above, will represent properties which have been transferred since 30 January 1933 and which were either:

(1) Clearly transferred under duress

(2) Possibly transferred under duress

e. A further investigation will be made of the properties falling under the description in d. (2), above, to resolve their status either way and eliminate those where very little evidence exists that the transfer was made under duress. To facilitate the investigation Civilian Agency Heads are advised to make use of the sources of information described in MGR Title 17, Part 6, Section A and, if practicable, search the records of the former Property Disposition Agencies (Vermögensverwertungsstellen) at the regional offices of the Oberfinanzpräsidenten. These records furnish information on the confiscation and disposition by the Reich of properties (except securities) belonging to persons, who, on the basis of political and discriminatory laws, ordinances, decrees or court actions, etc., were deprived of such properties. Information concerning transfers of properties under duress which is a matter of common knowledge locally will also be given due consideration.

f. After the further investigation prescribed in subparagraph e., above, the list will consist of properties which were transferred since 30 January 1933 and which were either:

RG 299
Entry Corresp. Ref.
File To For Civilian
Box Prop. Control
Circulars
3

PC Cir No. 1 (cont.)

(1) Clearly transferred under duress

(2) Probably transferred under duress

g. For each property remaining on the list, change all property control records in the Kreis office so that the "Reason for Control" symbol in the serial number appears as "G". This will be accomplished in such manner that the original "Reason for Control" symbol will be visible after the change is made.

h. Report all serial numbers changed in connection with this review on one Report of Property Transactions (MG/PC 3) for the following distribution:

(1) Each Civilian Agency Head, U.S. Zone and Bremen Enclave will forward three (3) copies of MG/PC 3 to Land Civilian Agency Head and Bremen Enclave Civilian Agency Head, respectively,

(2) Property Control Chief, OMG, Berlin Sector will forward one (1) copy to this office.

4. Each Land Civilian Agency Head and the Bremen Enclave Civilian Agency Head will make the necessary changes in their records and forward two (2) copies of MG/PC 3 to the appropriate Land Property Control Chief and Bremen Enclave Property Control Chief, respectively, as received. When a property formerly classified under a category listed in MGR 17-701 b. as a "German" property is reclassified pursuant to this circular, the original file (not a copy) pertaining to such property which is held by a Land or the Bremen Enclave Civilian Agency Head will be forwarded to the appropriate Land or Bremen Enclave Property Control Chief, with the MG/PC 3 when reporting the reclassification, together with the related cross-index card. Copies of advices or other forms which pertain only to accounting functions may be extracted from such files. However, no items of permanent record value such as MG/PC/2/Fs, MG/PC 3s, correspondence, etc., will be extracted. It will be the responsibility of each Land Civilian Agency Head and the Bremen Enclave Civilian Agency Head to make copies of such material in these files as may be required in each office.

5. Each Land Property Control Chief, the Bremen Enclave Property Control Chief and the Property Control Chief, OMG, Berlin Sector will make the necessary changes in their records and forward the original MG/PC 3s and related documents so as to arrive in this office by 15 February 1947.

6. Reporting agencies, as per paragraph 5, above, will prepare a report of this review which will accompany documents mentioned in

PC Cir No. 1 (cont.)

reference paragraph. Reasons for non-completion by any Civilian Agency Head under their respective control will be given therein.

E. N. Reinsel

(4)

E. N. REINSEL
Chief, Property Control Branch

DISTRIBUTION:

- 20 - Each LPCC
20 - Each LCAH
1 - Each CAH

RG 299
Entry Date _____
File Number _____
Box 3

327547

Note: previous pgs. are for
no. 8 Nov. '49 only

CUMULATIVE SUMMARY PROGRESS REPORT OF PETITIONS AND CASES RECEIVED BY THE
RESTITUTION AUTHORITY

10 NOVEMBER 1947 - 30 NOVEMBER 1949

SCHEDULE B

MG/PD/11c/F
(Jan 49)

I. PETITIONS:

1. Received by Agencies and Courts from the L.C.O. and those accepted by Restitution Agencies directly from Civil Courts --
2. Add (deduct): Received (transferred) a/c of changes of venue:-
 - a. Restitution Agencies - - - - -
 - b. Restitution Chambers - - - - -
 - c. Total (net) - - - - -
3. Total available for settlement, adjudication, review, or other final disposition - - - - -
4. Finally settled, adjudicated, reviewed, or otherwise disposed of by:
 - a. Restitution Agencies - - - - -
 - b. Restitution Chambers - - - - -
 - c. Oberlandesgerichte - - - - -
 - d. Board of Review - - - - -
 - e. Total - - - - -
5. On hand, 30 November 1949 - - - - -

Total	Bavaria	Hesse	Wuertt./Baden	Bremen
50,476	17,550	19,155	12,700	1,071
-760	+29	-773	-14	-2
0	0	0	0	0
-760	+29	-773	-14	-2
49,716	17,579	18,382	12,686	1,069
5,412	1,738	2,102	1,433	139
442	154	153	119	16
31	13	8	9	1
8	7	0	1	0
5,893	1,912	2,263	1,562	156
43,823	15,667	16,119	11,124	913

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By: [Signature]

327548

RG 2600
 Entry
 File Law 59 Regulations
 Roy P

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 AUTOMATICALLY BY 10
 NARA Date 2/10/70

CUMULATIVE SUMMARY PROGRESS REPORT OF PETITIONS AND CASES RECEIVED BY THE

RESTITUTION AUTHORITY

10 NOVEMBER 1947 - 30 NOVEMBER 1949

MG/PD/lle/F
(Jan 49)

327549

SCHEDULE B (cont'd)

II. CASES:

1. Total cases resulting from both the initial and subsequent breakdowns, made since 10 Nov 1947 of petitions received by Restitution Agencies and additional cases found to be embodied in cases received by Restitution Courts - - - - -
2. Add: Total cases accepted by Restitution Agencies directly from Civil Courts - - - - -
3. Add (deduct): Received (transferred) a/c changes of venue:
 - a. Restitution Agencies - - - - -
 - b. Restitution Chambers - - - - -
 - c. Total (net) - - - - -
4. Total available for settlement, adjudication, review, or other final disposition - - - - -
5. Finally settled, adjudicated, reviewed, or otherwise disposed of by:
 - a. Restitution Agencies - - - - -
 - b. Restitution Chambers - - - - -
 - c. Oberlandesgerichte - - - - -
 - d. Board of Review - - - - -
 - e. Total - - - - -

Total	Bavaria	Hesse	Wuertt., Baden	Bremen
56,071	20,438	20,954	13,293	1,386
+10	+3	+6	+1	0
-862	-11	-831	-15	-2
-11	-1	-10	0	0
-863	-9	-838	-14	-2
55,208	20,429	20,116	13,279	1,384
6,037	2,312	2,852	1,478	195
540	192	213	119	16
34	14	10	9	1
14	8	5	1	0
6,625	2,526	2,280	1,607	212

CUMULATIVE SUMMARY PROGRESS REPORT OF PETITIONS AND CASES RECEIVED BY THE
 RESTITUTION AUTHORITY

MG/PD/113/F
 (Jan 49)

10 NOVEMBER 1947 - 30 NOVEMBER 1949

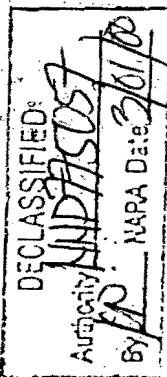
SCHEDULE B. (cont'd)

II. CASES: (cont'd)

6. In process, 30 November 1949, at:

- a. Restitution Agencies - - - - -
- b. Restitution Chambers - - - - -
- c. Oberlandesgerichte - - - - -
- d. Board of Review - - - - -
- e. Total - - - - -

Total	Bavaria	Hesse	Wuertt./ Baden	Bremen
46,449	17,205	16,672	11,431	1,141
1,987	632	1,117	209	29
96	48	22	24	2
51	18	25	8	0
48,583	17,903	17,838	11,672	1,172



327550

CUMULATIVE PROGRESS REPORT OF CASES RECEIVED BY RESTITUTION AGENCIES

MG/HD/11c/F
(Jan 49)

10 NOVEMBER 1947 - 30 NOVEMBER 1949

SCHEDULE B-1

RG 2000
Entry ~~Class & Cont~~
File Law 54 Regulations
Rox P

1. Total cases resulting from both the initial and any other subsequent breakdown made since 10 November 1947 of petitions received from the L.C.O.
2. Add: Total cases accepted directly from Courts
3. Add (deduct): Received (transferred) a/c of changes of venue
4. Total (net) received
5. Available for processing
6. Deduct: Cases in connection with which service of notice (Art. 61), or receipt of answers (Art 61), or submission of statements (Art 62), is incomplete
7. Available for settlement
8. Processed and final disposition made:
 - a. Amicable settlements effected of entire cases
 - b. Granted and not appealed
 - c. Dismissed and not appealed
 - d. Withdrawn
 - e. Total

Total	Bavaria	Hesse	Wuertt./Baden	Bremen
56,022	20,389	20,954	13,293	1,386
10	+ 3	+ 6	+ 1	0
-862	-11	-834	-15	-2
-852	-8	-828	-14	-2
55,170	20,381	20,126	13,279	1,384
39,340	12,010	15,500	10,793	1,037
15,830	8,371	4,626	2,486	347
2,979	1,170	629	1,144	36
316	14	228	15	59
776	176	503	80	17
1,966	952	692	239	83
6,037	2,312	2,052	1,478	195

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Authority: NARA Date: 26/1/00
By:

327551

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By [initials] NARA Date 3/1/10

RG 2600
Entry ~~Files to~~
File ~~law 54 Regulations~~
Rev 10

10 NOVEMBER 1947 - 30 NOVEMBER 1949

SCHEDULE B-1 (cont'd)

CUMULATIVE PROGRESS REPORT OF CASES RECEIVED BY RESTITUTION AGENCIES

MG/PD/11c/F
(Jan 49)

9. Processed and forwarded to Restitution Chambers:

- a. Partial amicable settlements effected - - - - -
- b. Entire cases which could not be settled amicable - - - - -
- c. Granted and appealed - - - - -
- d. Dismissed and appealed - - - - -

e. Total - - - - -

10. Total processed - - - - -

11. In process, 30 November 1949 - - - - -

Total	Bavaria	Hesse	Wuertt./ Baden	Bremen
184	13	153	18	0
2,020	693	962	321	44
89	7	74	7	1
391	151	213	24	3
2,684	864	1,402	370	48
8,721	3,176	3,454	1,848	243
46,449	17,205	16,672	11,431	1,141

327552

327553

RG	2100
Entry	Class Cont.
File	Laws & Regulations
Rev	10

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NARA Date 3/6/10
Authority NARA Date 3/6/10
By [initials]

CUMULATIVE PROGRESS REPORT OF CASES RECEIVED BY RESTITUTION CHAMBERS

10 NOVEMBER 1947 - 30 NOVEMBER 1949

MG/PD/11c/F
(Jan 49)

SCHEDULE B-2

1. Total cases received from restitution agencies and those resulting from any subsequent breakdown - - - - -
2. Add: Received on remand from: - - - - -
 - a. Oberlandesgerichte - - - - -
 - b. Board of Review - - - - -
 - c. Total - - - - -
3. Add (deduct): Received (transferred) a/c of changes of venue - - - - -
4. Total (net) received other than from restitution agencies - - - - -
5. Total available for adjudication - - - - -
6. Adjudicated and final disposition made:
 - a. Decisions not appealed:
 - (1) In favor of petitioners - - - - -
 - (2) In favor of restitutors - - - - -
 - (3) In favor of both petitioners and restitutors - - - - -
 - (4) Total - - - - -
 - b. Dismissed and not appealed - - - - -
 - c. Withdrawn - - - - -
 - d. Total - - - - -

Total	Bavaria	Hesse	Wuertt./ Baden	Bremen
2,733	913	1,402	370	48
39	10	22	7	0
0	-	0	-	0
39	10	22	7	0
-11	-1	-10	-	0
+28	+9	+12	+7	0
2,761	922	1,414	377	48
79	38	19	16	6
64	26	29	5	4
268	81	100	84	3
411	145	148	105	13
8	3	3	2	0
121	44	62	12	3
540	192	213	119	16

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Authority: NID/DOCS
By: NARA Date: 3/6/10

RG 200
Entry 600
File Law 59 Regulations
Rev 10

CUMULATIVE PROGRESS REPORT OF CASES RECEIVED BY OBERLANDESGERICHTHE

10 NOVEMBER 1947 - 30 NOVEMBER 1949

MG/FD/11c/F
(Jan 49)

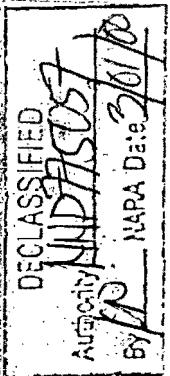
327554

SCHEDULE B-3

1. Total cases received from Restitution Chambers and those resulting from any subsequent breakdown - - - - -
2. Add: Received on remand from Board of review - - - - -
3. Total available for adjudication - - - - -
4. Adjudicated and final disposition made:
 - a. Decisions not appealed:
 - (1) In favor of petitioners - - - - -
 - (2) In favor of restitutors - - - - -
 - (3) In favor of both petitioners and restitutors - - - - -
 - (4) Total - - - - -
 - b. Dismissed and not appealed - - - - -
 - c. Withdrawn - - - - -
 - d. Total - - - - -
5. Adjudicated and remanded to Restitution Chambers - - - - -

Total	Bavaria	Hesse	Wuertt./Baden	Bremen
218	88	81	46	3
0	0	0	-	0
218	88	81	46	3
14	6	4	4	0
10	6	4	0	0
2	0	1	1	0
26	12	9	5	0
1	3	0	-	1
7	2	1	4	0
34	14	10	9	1
39	19	23	7	0

RG 200
Entry ~~Case 58~~
File Law 54 Regulations
Rev 10



SCHEDULE B-3 (cont'd)

CUMULATIVE PROGRESS REPORT OF CASES RECEIVED BY OBERLANDESGERICHTHE

10 NOVEMBER 1947 - 30 NOVEMBER 1949

MG/PD/11c/F
(Jan 49)

327555

6. Adjudicated and forwarded to Board of Review on appeal:
 - a. Decisions appealed:
 - (1) By petitioners - - - - -
 - (2) By restitutors - - - - -
 - (3) Total - - - - -
 - b. Dismissed and appealed - - - - -
 - c. Total - - - - -
7. Total adjudicated - - - - -
8. In process, 30 November 1949 - - - - -

Total	Bavaria	Hesse	Wuertt./ Baden	Bremen
41	14	23	4	0
8	2	4	2	0
49	16	27	6	0
0	0	0	-	0
49	16	27	6	0
122	40	59	22	1
96	48	22	24	2

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NARA Date: 3/1/10

RG 200
Entry [Signature]
File Law 59 Regulations
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CUMULATIVE PROGRESS REPORT OF CASES RECEIVED BY THE BOARD OF REVIEW

10 NOVEMBER 1947 - 30 NOVEMBER 1949

MG/PD/lle/F
(Jan 49)

SCHEDULE B-4

1. Total cases received from Oberlandesgerichte and those resulting from any subsequent breakdown - - - - -
2. Total cases received from Restitution Chambers and those resulting from any subsequent breakdown - - - - -
3. Total available for review - - - - -
4. Reviewed and final decisions rendered:
 - a. Appeals rejected:
 - (1) By petitioners - - - - -
 - (2) By restitutors - - - - -
 - (3) Total - - - - -
 - b. Cases accepted and decisions rendered:
 - (1) In favor of petitioners - - - - -
 - (2) In favor of restitutors - - - - -
 - (3) Total - - - - -
 - c. Withdrawn - - - - -
 - d. Total - - - - -
5. Reviewed and remanded to:
 - a. Oberlandesgerichte - - - - -
 - b. Restitution Chambers - - - - -
 - c. Total - - - - -
6. Total reviewed - - - - -
7. In process, 30 November 1949 - - - - -

Total	Bavaria	Hesse	Wuertt./Baden	Bremen
48	15	27	6	0
17	11	3	3	0
65	26	30	9	0
11	7	4	0	0
1	1	0	0	0
12	8	4	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
2	0	1	1	0
14	8	5	1	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
14	3	5	1	0
51	18	25	8	0

327556

RG 2600
Entry ~~Case Control~~
File Law SG Regulations
Rox IP

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REF ID: A65057
By [initials]
NARA Date 2/1/10

CUMULATIVE PROGRESS REPORT OF CASES RECEIVED BY RESTITUTION CHAMBERS

10 NOVEMBER 1947 - 30 NOVEMBER 1949

MG/PD/11c/F
(Jan 49)

327557

SCHEDULE B-2 (cont'd)

7. Adjudicated and forwarded to Oberlandesgerichte on appeal:
 - a. Decisions appealed:
 - (1) By petitioners - - - - -
 - (2) By restitutors - - - - -
 - (3) Total - - - - -
 - b. Dismissed and appealed - - - - -
 - c. Total - - - - -
8. Adjudicated and forwarded to Board of Review on appeal:
 - a. Decisions appealed:
 - (1) By petitioners - - - - -
 - (2) By restitutors - - - - -
 - (3) Total - - - - -
 - b. Dismissed and appealed - - - - -
 - c. Total - - - - -
9. Total adjudicated - - - - -
10. In process, 30 November 1949 - - - - -

Total	Bavaria	Hesse	Wuertt./Baden	Bremen
101	32	54	14	1
77	33	23	19	2
178	65	77	33	3
40	23	4	13	0
218	88	81	46	3
13	9	2	2	0
3	1	1	1	0
16	10	3	3	0
0	-	0	-	0
16	10	3	3	0
774	290	297	168	19
1,987	632	1,117	209	29

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Authority	MDPSOS7
By	NARA Date 3/01/00

Helen
RG 260
Entry Recs of Prop
File Control DIV
Box Law 59 Progress
Charts
Box 10

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)

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

✓ 25 March 1949

SUBJECT: Property Control Progress Charts

3rd drawer File

TO : Mr. Frank J. Miller
Special Assistant to the Director, Property Division

1. Enclosed herewith is a complete set of Progress Charts which visually present Property Control statistics.
2. Please let us know whether you desire any additional sets.

I Incl:
Set of Progress Charts

Telephone WIESBADEN 21341
Ext 421

Frank J. Brooks
FRED E. HARTZSCHE
Chief

327558

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
APO 633

PERCENTAGE OF PROPERTIES RELEASED TO TOTAL PROPERTIES HANDLED
FROM THE BEGINNING OF THE RESPECTIVE DISPOSITION PROGRAMS THROUGH 28 FEBRUARY 1949

RG 2/6/60
Entry 2600
File Law 59 Progress
Rev 10

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MIDPSC057
Author: [Signature]
Date: 3/6/10
By: [Signature]

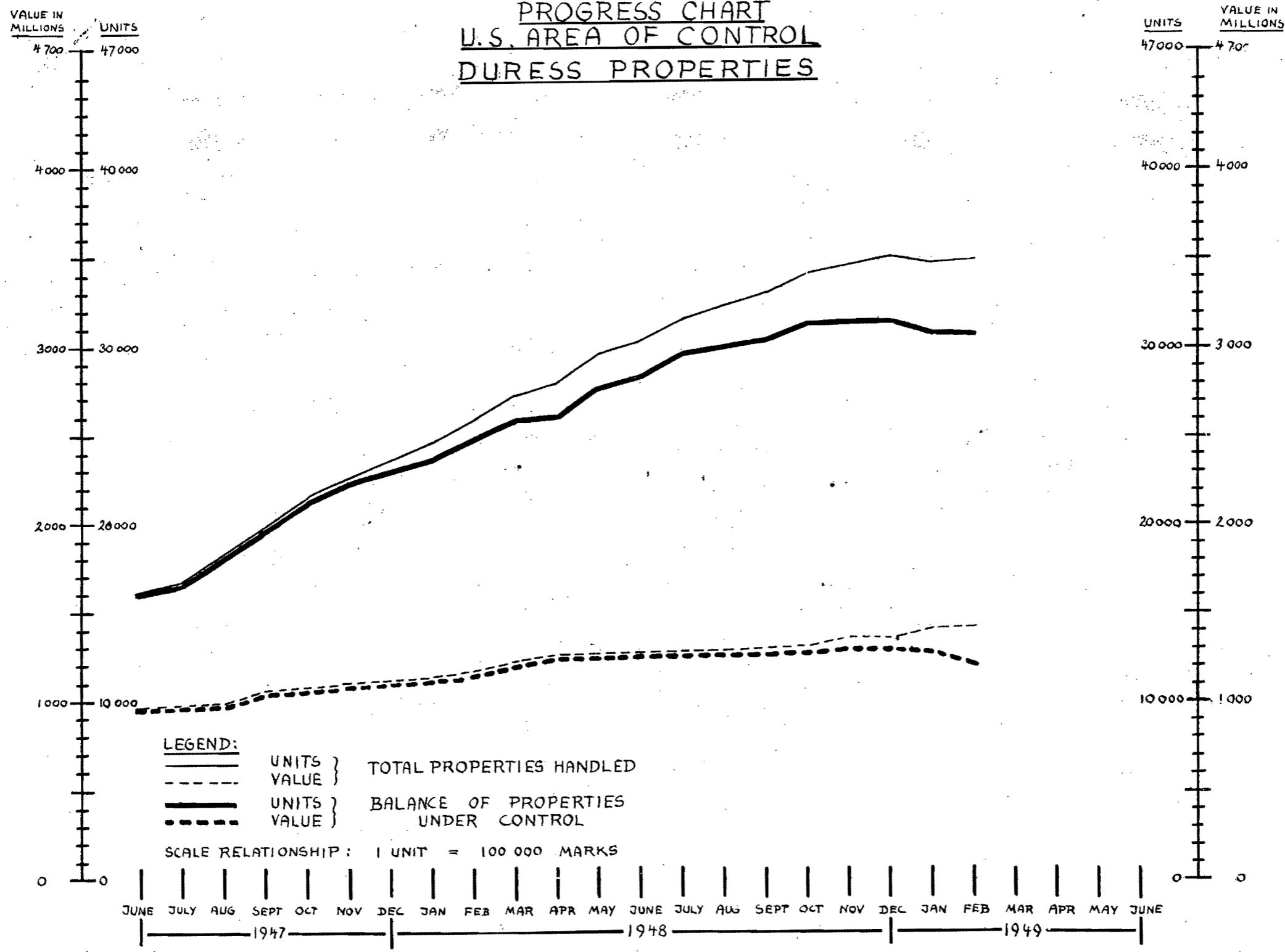
327559

Categories	Total		Bavaria		Hesse		Wuerttemberg/ Baden		Bremen		Berlin	
	Units %	Value %	Units %	Value %	Units %	Value %	Units %	Value %	Units %	Value %	Units %	Value %
NSDAP members & black-listed persons	89	77	84	75	95	82	91	89	94	63	43	27
United Nations & other absentee owners	45	69	47	76	28	85	69	85	65	89	16	23
External loot	50	57	50	55	100	100	100	100	-	-	13	-
NSDAP organizations	94	71	99	67	93	97	98	96	99	100	3	5
Former IG Farben	99	99	100	100	97	99	100	100	100	100	100	100
Miscellaneous	48	27	62	18	59	42	61	10	100	100	6	8
Total other than Reich & Duress	79	72	74	71	89	86	85	85	89	75	26	22
Total including Reich & Duress	62	50	58	46	68	57	69	69	75	61	17	18

Comments:

It will be noted that since the beginning of the respective disposition programs over three-quarters of the properties subject to release under such programs, i.e., all property other than Reich and duress, have been released from control. This has been accomplished in spite of the fact that the over-all figures include Berlin operations where the disposition programs are either wholly inapplicable or are circumscribed to such an extent by the present political situation as to be more or less ineffective.

Attention is also invited to the fact that, even including the Reich and duress categories, well over three-fifths of properties handled have been returned to ultimate rightful owners or their successors in interest.



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 Authority: ND-1000-057
 By: JD
 NARA Date: 3/6/10

RG 2100
 Entry Rec'd 07/09/08
 File Law St Progress
 Rev 10

325760

PROGRESS CHART

BAVARIA

DURESS PROPERTIES

VALUE IN
MILLIONS

UNITS

1400

VALUE IN
MILLIONS

UNITS

14000

12500

1250

10000

1000

10000

1000

7500

750

5000

500

2500

250

12500

1250

10000

1000

7500

750

5000

500

2500

250

0

0

JUNE JULY AUG SEPT OCT NOV DEC JAN FEB MAR APR MAY JUNE JUNE JULY AUG SEPT OCT NOV DEC JAN FEB MAR APR MAY JUNE

1947

1948

1949

RG 2106
Entry ~~Dec 01 1948~~
File ~~Land SG Progress~~
Rev 10

DECLASSIFIED
NDAFS/COST
Authority: NARA Date 26/10
By: [Signature]

REPRODUCED AT THE NATIONAL ARCHIVES

REPRODUCED AT THE NATIONAL ARCHIVES

LEGEND:

UNITS } TOTAL PROPERTIES HANDLED
VALUE }
UNITS } BALANCE OF PROPERTIES
VALUE } UNDER CONTROL

SCALE RELATIONSHIP: 1 UNIT = 100 000 MARKS

327561

1 VALUE IN
MILLIONS

1750 17500

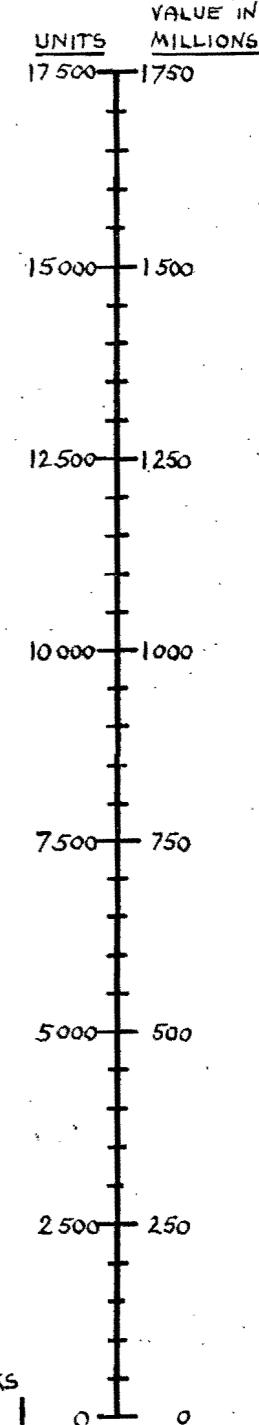
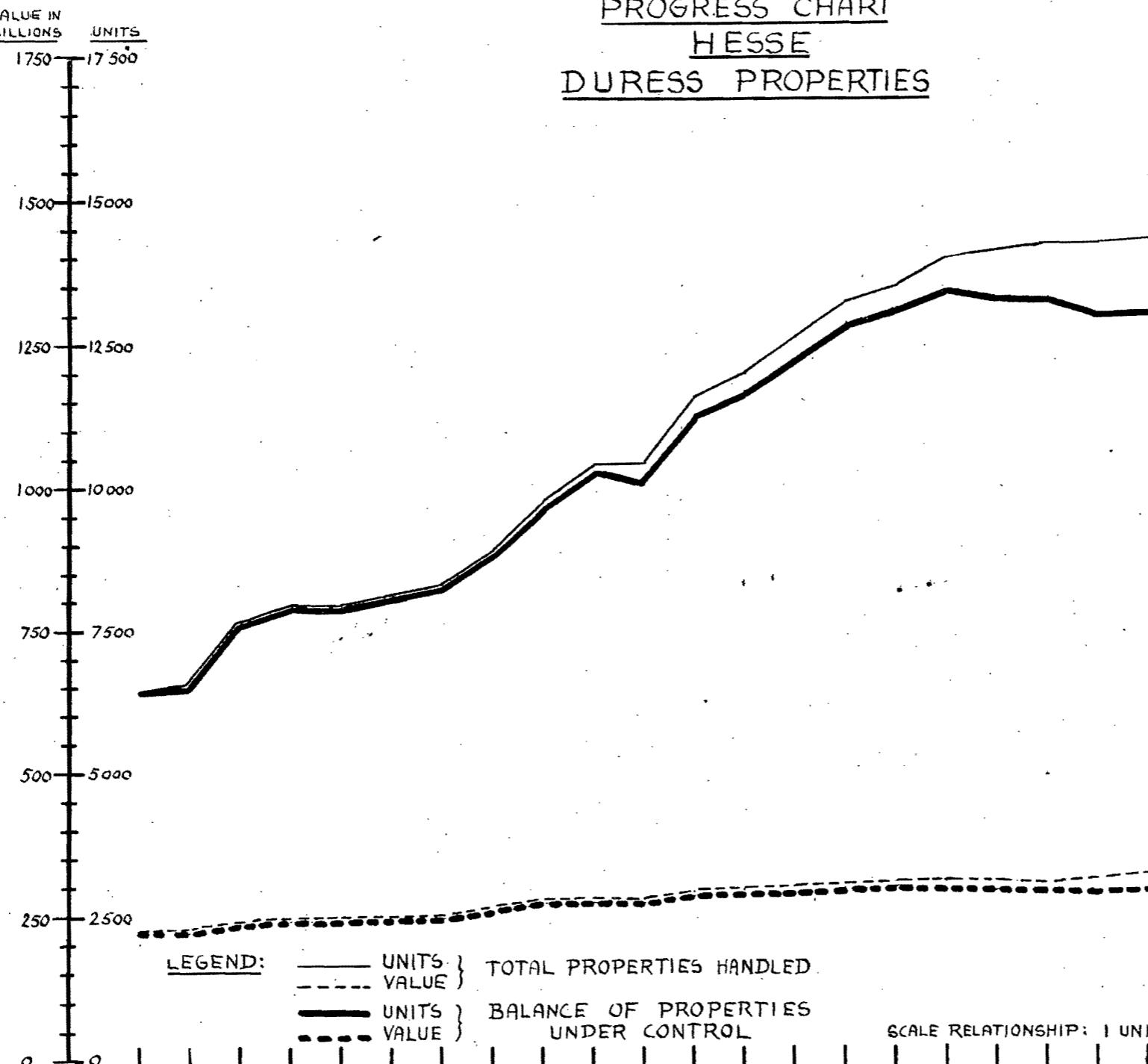
PROGRESS CHART
HESSE
DURESS PROPERTIES

UNITS
VALUE IN
MILLIONS

17500 1750

RG 2106
Entry ~~Recd by PWD~~
File ~~Con Brit Div~~
RG ~~an Sg Progress~~
Roy 10

DECLASSIFIED
NDPS COST
Autocopy
By JN NARA Date 3/6/10



327562

PROGRESS CHART
WUERTTEMBERG / BADEN
DURESS PROPERTIES

VALUE IN
MILLIONS

700

UNITS

7000

VALUE IN
MILLIONS

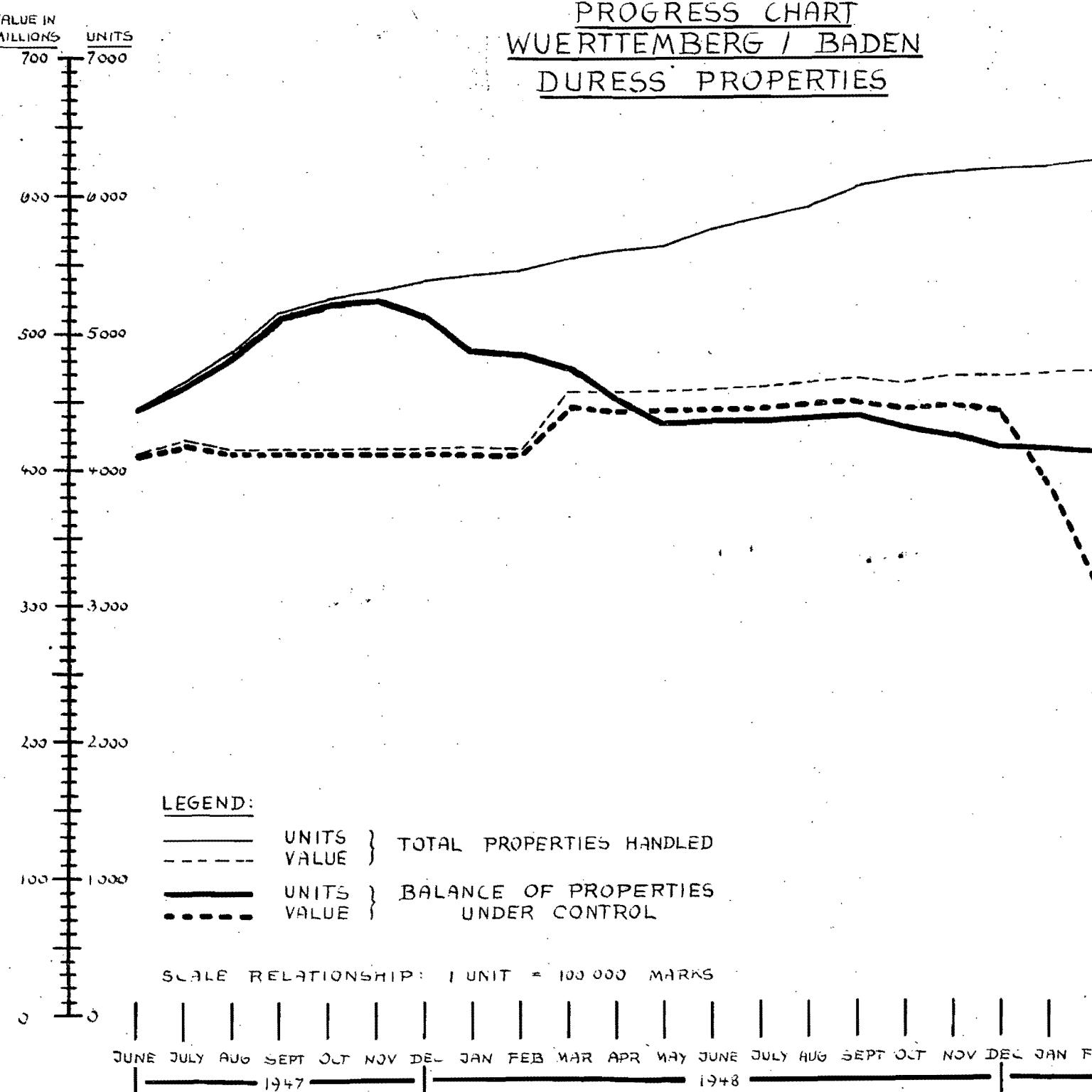
700

UNITS

7000

RG 2100
 Entry ~~Properties~~
 File ~~Control Div.~~
 Low ~~of Properties~~
 RG 10
 Roy

DECLASSIFIED
 Authority ADASOS
 By AD
 NARA Date 2/10/07



327563

PROGRESS CHART

BREMEN

DURESS PROPERTIES

VALUE IN
MILLIONS

UNITS

350

300

250

200

150

100

50

0

VALUE IN
MILLIONS

UNITS

350

300

250

200

150

100

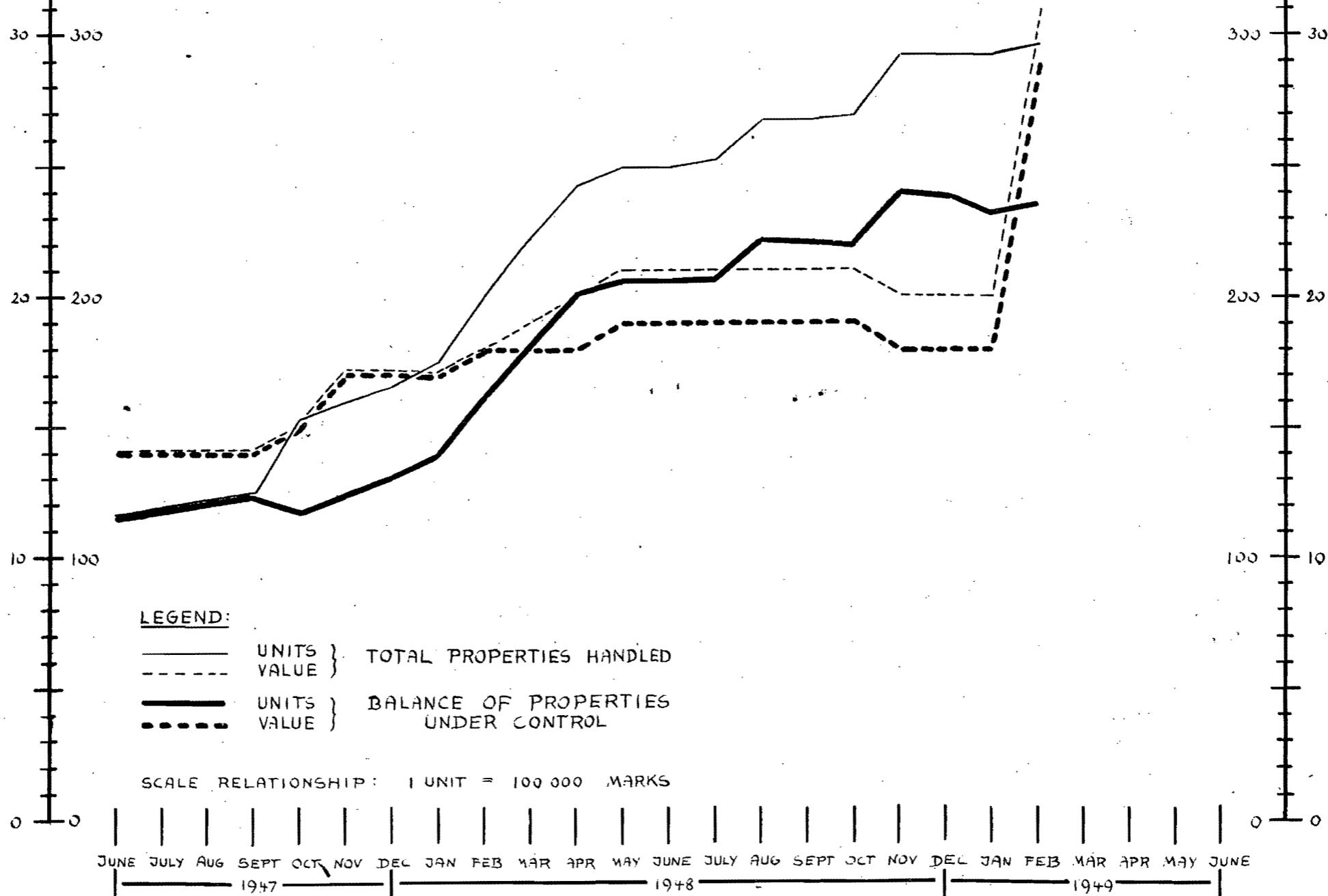
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RG 2106
 Entry ~~Recd. On File~~
 File Law 59 Progress
 Rev 10

DECLASSIFIED
 Authority NIDAP057
 By AP
 MARA Date 20/10

327564



PROGRESS CHART

BERLIN

DURESS PROPERTIES

VALUE IN
MILLIONS

UNITS

280

VALUE IN
MILLIONS

UNITS

280

2600

2500

2000

1500

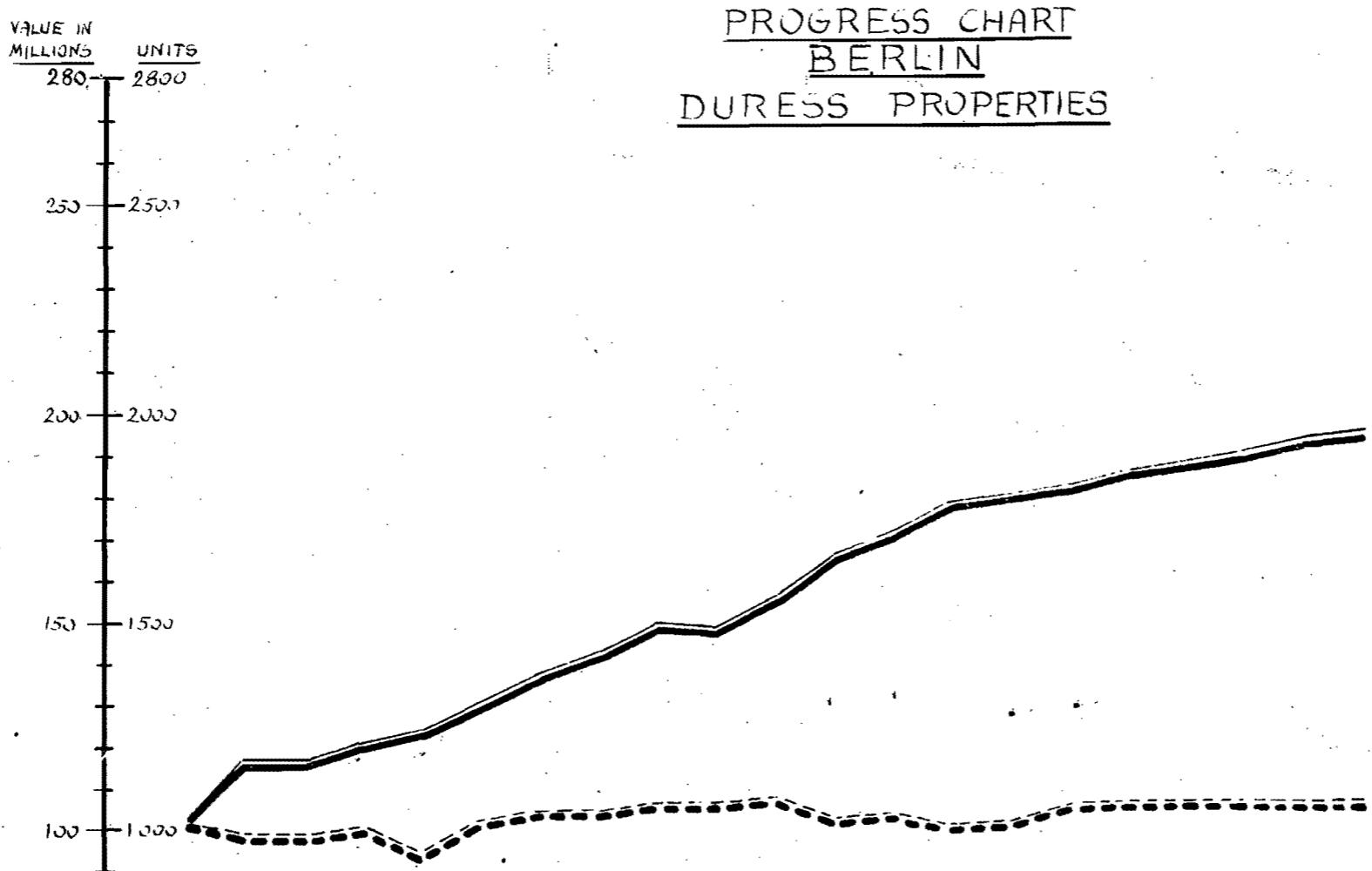
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RG 2600
 Entry 2600
 File 2600
 Duress Properties
 Chart
 Nov 10

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 AUTHORITY: KARADATE 3/6/70
 BY: [Signature]



LEGEND:

— UNITS } TOTAL PROPERTIES HANDLED
 - - - VALUE }

— UNITS } BALANCE OF PROPERTIES
 - - - VALUE } UNDER CONTROL

SCALE RELATIONSHIP: 1 UNIT = 100 000 MARKS

JUNE JULY AUG SEPT OCT NOV DEC JAN FEB MAR APR MAY JUNE
 1947 ————— 1948 ————— 1949 —————

PROGRESS CHART
U.S. AREA OF CONTROL
ALL PROPERTIES

VALUE IN
MILLIONS

UNITS

17500 175000

UNITS

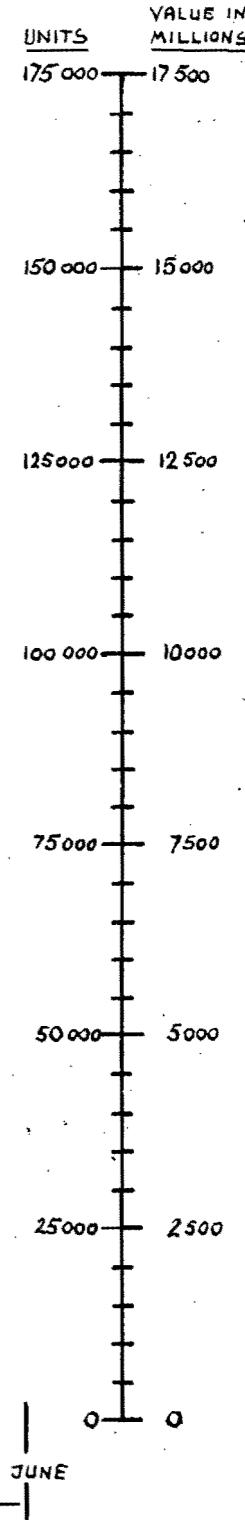
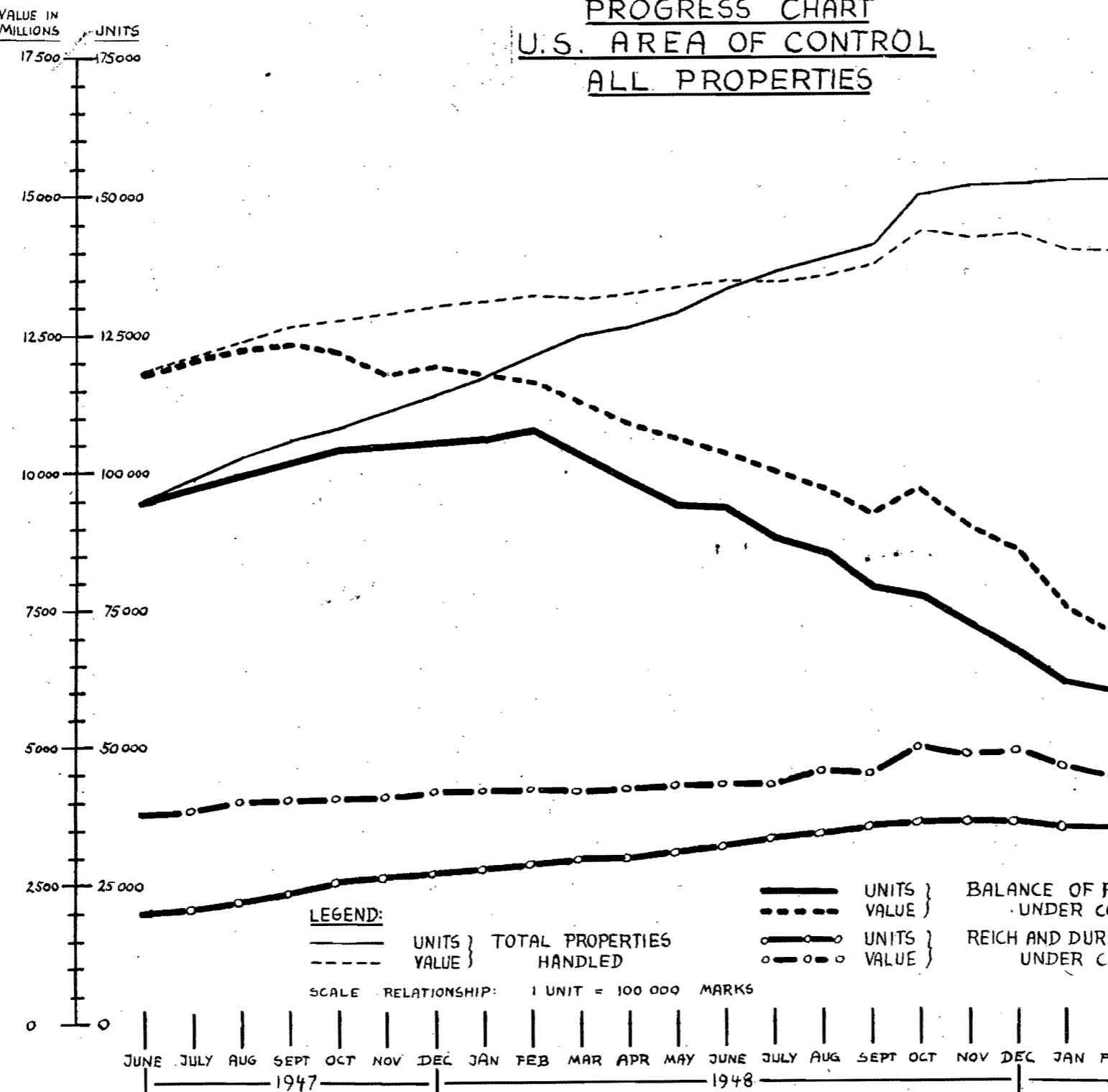
VALUE IN
MILLIONS

175000 17500

RG 2100
Entry Rec'd Prop
File Law SA Progress
Roy 10

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Authority NID/DS/CST
By [Signature] NARA Date 26/10

REPRODUCED AT THE NATIONAL ARCHIVES
REPRODUCED AT THE NATIONAL ARCHIVES



PROGRESS CHART
BAVARIA
ALL PROPERTIES

VALUE IN
MILLIONS

UNITS

7000

UNITS.

VALUE IN

MILLIONS

70 000

60 000

0 000

50 000

5 000

40 000

4 000

30 000

3 000

20 000

2 000

10 000

1 000

60 000

50 000

40 000

30 000

20 000

10 000

0

0

JUNE JULY AUG SEPT OCT NOV DEC JAN FEB MAR APR MAY JUNE JULY AUG SEPT OCT NOV DEC JAN FEB MAR APR MAY JUNE

1947 1948 1949

LEGEND:

UNITS }
 ----- }
 VALUE }

TOTAL PROPERTIES
HANDLED

UNITS }
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 VALUE }

BALANCE OF PROPERTIES
UNDER CONTROL

REICH AND DURESS PROPERTIES
UNDER CONTROL

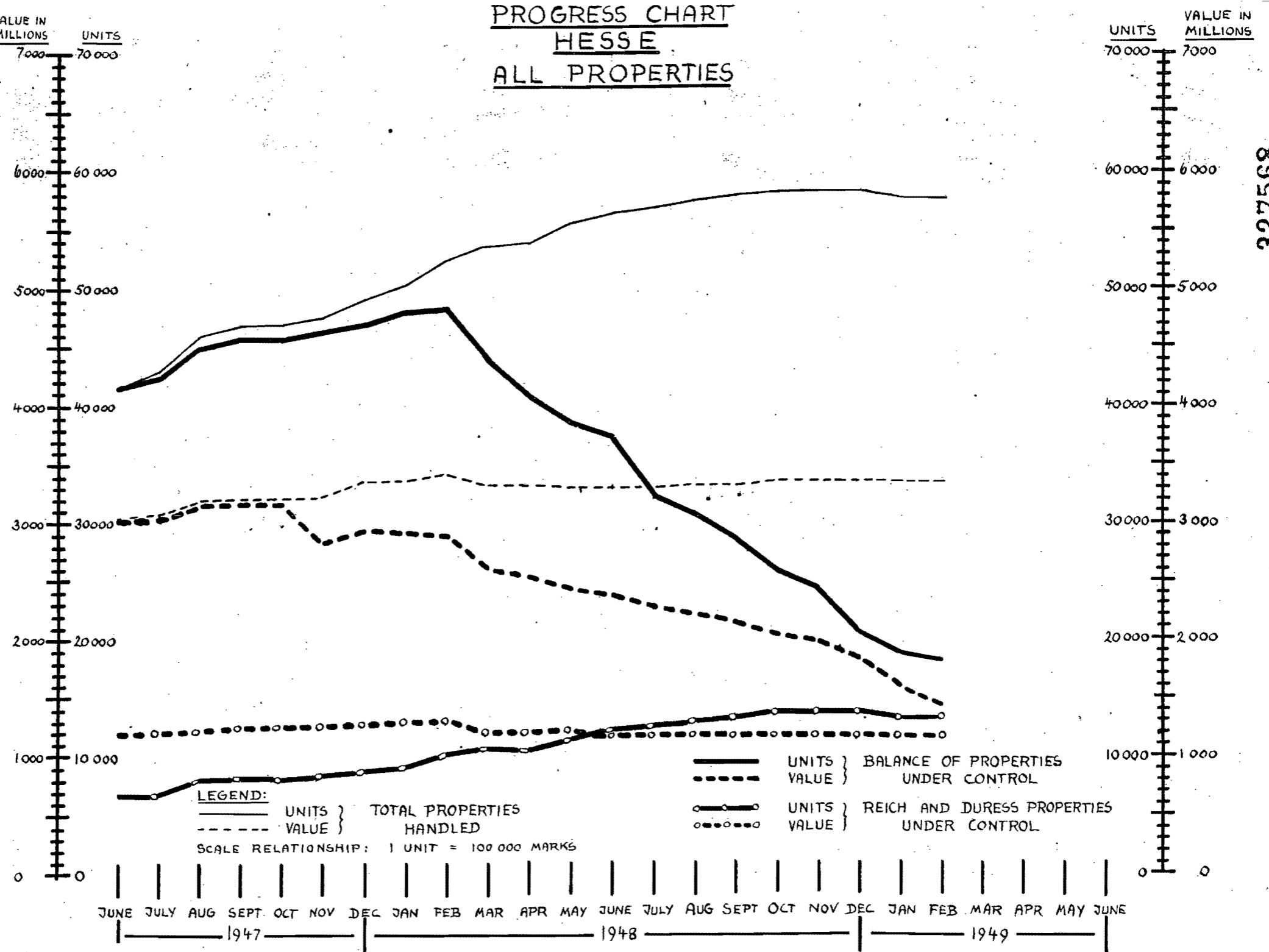
SCALE RELATIONSHIP: 1 UNIT = 100 000 MARKS

RG 261/60
Entry Rec'd 26/1/49
File Law 5/6 Progress
Div. Control
Prog. Chanc.
Roy 10

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Authority: NARA Date: 26/1/06
By: [Signature]

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PROGRESS CHART
HESS E
ALL PROPERTIES



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 AUTOMATICALLY
 BY DDPS/COST
 NARA Date 3/6/10

REPRODUCED AT THE NATIONAL ARCHIVES

RG 2600 Progress
 Entry 66 Comp Div
 File Law 59 Progress
 Chart Nov 10

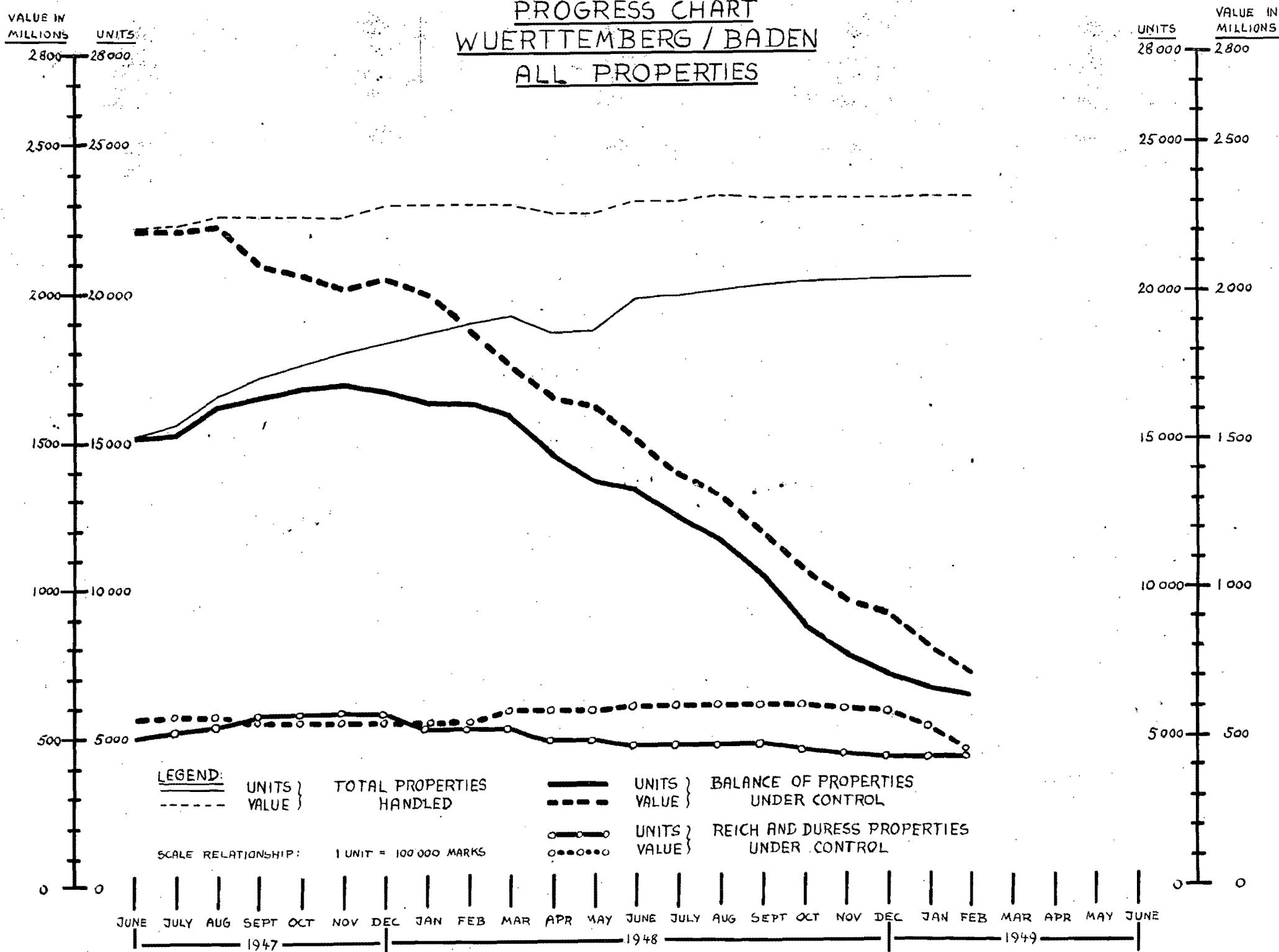
327568

PROGRESS CHART
WUERTTEMBERG / BADEN
ALL PROPERTIES

RG 2100
 Entry Case No. 100
 File No. 59 Progress
 RG 10

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 BY 1975 COST
 AUTHORITY
 NARA Date 26/10
 By

REPRODUCED AT THE NATIONAL ARCHIVES
 REPRODUCED AT THE NATIONAL ARCHIVES



327569

PROGRESS CHART
BREMEN
ALL PROPERTIES

VALUE IN

UNITS

5800

UNITS

5800

VALUE IN
MILLIONS

580

TRG 2600
 Entry ~~Rec'd on 10/10/48~~
 File ~~law 59 progress~~
 RG 10

DECLASSIFIED
 AUTOMATICALLY
 BY [initials]
 NARA Date 26/10

5000

4000

3000

2000

1000

0

5000

4000

3000

2000

1000

0

327570

LEGEND:

- | | | |
|---------|---------|--|
| — UNITS | — VALUE | TOTAL PROPERTIES
HANDLED |
| — UNITS | — VALUE | BALANCE OF PROPERTIES
UNDER CONTROL |
| — UNITS | — VALUE | REICH AND DURESS PROPERTIES
UNDER CONTROL |

SCALE RELATIONSHIP: 1 UNIT = 100 000 MARKS

1000

0

JUNE

JULY

AUG

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JAN

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MAR

APR

MAY

JUNE

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SEPT

OCT

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MAR

APR

MAY

JUNE

1948

1948

1948

DECLASSIFIED
Authority: NDASSCOST
By: NARA Date: 3/10/10

RG 260 Open
Entry File Control DV
File Law 59 Progress
RCV 10

VALUE IN
MILLIONS

UNITS

17500

PROGRESS CHART
BERLIN
ALL PROPERTIES

VALUE IN
MILLIONS

UNITS

17500

327571

15000

12500

10000

7500

5000

2500

0

15000

12500

10000

7500

5000

2500

0

15000

12500

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5000

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15000

12500

10000

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5000

2500

0

JUNE JULY AUG SEPT OCT NOV DEC JAN FEB MAR APR MAY JUNE JULY AUG SEPT OCT NOV DEC JAN FEB MAR APR MAY JUNE

1947 1948 1949

LEGEND:

— UNITS } TOTAL PROPERTIES
- - - VALUE } HANDLED

SCALE RELATIONSHIP : 1 UNIT = 100 000 MARKS

UNITS } BALANCE OF PROPERTIES
- - - VALUE } UNDER CONTROL

— UNITS } REICH AND DURESS PROPERTIES
- - - VALUE } UNDER CONTROL

RG 260 Recs of legal Division
Legal Advance Branch Records
A. 60.2
Property Disposition File
Schedule C Page 1 Box 58

327572
Authority NWD 715037
NARA Date 3/10
DECLASSIFIED

TYPES OF PROPERTY BY REASON FOR CONTROL

as of 28 February 1946 and 31 January 1946

Type of Property	Total		United Nations		German State		Nazis Party & Members	
	No. of Units	Estimated Value RM	No. of Units	Estimated Value RM	No. of Units	Estimated Value RM	No. of Units	Estimated Value RM
Agr. Units	528	47,039,681.	28	5,203,359.	16	6,514,500.	425	27,015,828.
Cash Property	835	39,476,583.	73	1,350,904.	60	15,252,566.	553	15,416,192.
Distr. Units	165	127,539,584.	18	11,972,904.	8	71,791,200.	96	35,183,109.
Foreign Assets	11	2,825.	1	-	1	2,825.	2	-
Ind. Units	927	1,502,991,577.	100	362,720,520.	72	444,608,015.	542	447,274,956.
Inventories	876	26,026,504.	31	7,768,758.	38	2,549,249.	732	3,119,067.
Livestock	441	2,511,060.	-	-	438	2,505,000.	3	6,060.
Mach. & Tools	585	18,896,270.	38	2,532,500.	416	7,201,341.	116	5,595,219.
Marine Units	15	24,516,000.	-	-	2	24,016,000.	12	-
Precious Metals	10	150,934.	-	-	-	-	2	1,440.
Public Units	157	28,862,847.	1	34,000.	87	18,392,242.	50	8,466,680.
Real Estate	8656	309,585,473.	1170	50,669,575.	1991	87,611,995.	3609	118,296,838.
Retail & Serv.Un.	1863	130,103,863.	38	31,544,752.	22	2,469,473.	1316	79,297,518.
Securities	488	30,840,751.	62	22,385,411.	4	19,301.	405	7,101,754.
Unallocated	1	168,858,040.	-	13,681,819.	-	19,922,947.	-	124,501,841.
Unclassified	27	13,656,515.	3	54,454.	6	678,400.	35	11,671,286.
Total Cash	15,604.	2,561,058,297.	1563	515,318,956.	3161	703,635,054.	7898	882,947,798.
		87,531,284.14		1,630,762.62		27,254,829.09		37,571,032.64

TYPE OF PROPERTY BY NATIONALITY OF OWNERSHIP
as of 28 February 1946

Schedule B Page 1

327573

Type of Property	Total		Germany		United States		United Kingdom	
	No. of Units	Estimated Value	No. of Units	Estimated Value	No. of Units	Estimated Value	No. of Units	Estimated Value
Agriculture Units	528	47,039,681.	504	42,144,508.	13	1,477,773.	1	9,000.
Cash Property	635	39,476,563.	667	35,433,142.	36	598,935.	7	14,477.
Distribution Units	165	127,579,584.	143	114,28,047.	11	6,501,582.	2	945,000.
Foreign Assets	11	2,825.	3	2,625.	-	-	-	-
Industrial Units	927	1,592,991,567.	805	1,365,476,040.	56	98,098,211	13	53,421,224.
Inventories	876	26,026,504.	812	16,392,101.	16	445,990.	3	81,618.
Livestock	441	2,511,060.	541	2,511,060.	-	-	-	-
Mach. Tools & Eqpt.	585	18,896,270.	543	14,813,770.	28	2,300,000.	-	-
Marine Units	15	24,516,000.	14	24,016,000.	-	-	-	-
Precious Metals	10	150,934.	9	13,170.	-	-	-	-
Public Units	157	28,662,677.	155	27,701,400.	-	-	-	-
Real Estate	8,656	309,585,173.	7,299	253,467,214.	613	22,742,234.	133	3,671,242.
Retail & Service Un.	1,863	130,103,063.	1,621	98,810,579.	21	27,594,184.	5	486,500.
Securities	488	30,640,751.	423	16,296,105.	43	11,045,814.	-	-
Unallocated	-	160,858,040.	-	159,127,623.	-	6,232,090.	-	113,600.
Unclassified	47	13,656,515.	42	12,656,015.	2	-	-	-
Total	15,604	2,561,058,297.	13,706	2,203,342,399.	639	180,216,843.	164	59,003,661.
Cash		87,531,284.14		82,700,879.63		574,817.19		62,547.82

RG 260

Recs of Berlin Sector
Prop Control Branch

Box 660

PROPERTY DIVISION
Property Control Branch
APO 742, US Army"Gen'l Corresp.
1945-48 Vol. II"P. 4: Questions of
property values

13 December 1946

SUBJECT: Examination of the Property Control Section, Office of Military Government - Berlin Sector.

TO : Chief, Accounts & Audits Section, Property Control Branch
Finance Division

FROM : G. F. Lennon, Chief Auditor (per p. 11)

In compliance with the recommendations contained in letter dated 22. August 1946, this headquarters, subject: "Report of Audit - Berlin District", signed Leslie W. Jefferson, Chief, Property Control Branch, a complete examination of the Property Control Branch, OMGUS - Berlin Sector, has been made between the dates 14 October and 30 November 1946.

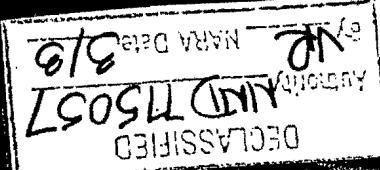
GENERAL

Before entering into the findings of this examination, the auditors should like to make a few comments on the background of this office in respect to its duties since activation, its changes in personnel and its problems which other similar offices in thebaender do not encounter.

In July 1945 a Military Government Property Control Office was set up for the American Sector of Berlin to take under control and maintain custody of properties subject to the provisions of Law 52. Captain Reed was the first Property Control Officer appointed for this office.

The personnel assigned to this office at the time of activation was limited. Four German Civilians, appointed by the Magistrat of Berlin as Property Control Officers, were reappointed as Chief Custodians by Military Government. Their duties included assumption of custodianship over properties taken under control, the administration thereof and the accomplishing of periodical financial reports. It was not until late in the year 1945 that additional chief custodians were appointed. The plan of custodianship in Office of Military Government - Berlin Sector was distinctive in that each custodian would administer only one classification of property. This plan has been expanded and carried forward to date (for administration plan see Appendix A). At the beginning of the year 1946 approximately 1900 properties had been taken under control, of which very few had any reports other than MG/PO/2 (Report of Property Taken under Control) accomplished and submitted. It was not until February 1946 that any system of records, reports and narrative statements was compiled within the Property Control Office - Berlin Sector. This created a backlog of eight months work in nearly every case for each property. Chief custodians had to be more carefully instructed and

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...there was insufficient time to process such reports. During the examination approximately 3000 financial or narrative statements were processed and forwarded to higher headquarters. Appendix B attached hereto contains a list of those properties for which statements are still to be submitted. This can only be done when they are received from chief custodians or processed by Property Control Office - Berlin Sector.

3. It was requested in report, Subject: "Investigation of Deficit Amounts in Property Accounts, Office of Military Government - Berlin Sector" dated 8 August 1946, Par 6 b (Recommendations) that properties used by occupying forces, governmental agencies etc. be released from Property Control under the provisions of MGR Title 17 (Revised 1 September 1946) paragraphs 17-241 and 17-310. These instructions have not been fully complied with as Appendix C attached contains a list of properties in the above category which according to records available have not been released from control.

4. Careful examination of individual property control files revealed numerous properties either absolutely mis-classified as to "Reason for Control" or of such doubtful classification that further investigation is necessary to determine their correct status. It is apparent that custodians recorded ownership of properties according to the Grundbuch or other available municipal records regardless of duress conditions possibly influencing the transactions. Appendix B attached contains a list of those properties which have questionable classifications as to "Reason for Control". It is very important that, should it be found through further investigation that the listed properties are at present incorrectly classified, such changes be recorded on a MS/PC/3 (Report of Property Transactions) and forwarded in necessary copies for processing to the office of the Chief Property Control Branch.

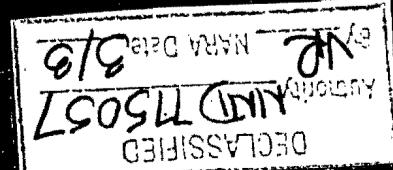
In the past, changes involving property serial numbers have not been submitted on MG/PG/3s and as a result property serial numbers listed in the files within the Property Control Office - Berlin Sector are different from those contained in the files of the Chief Property Control Branch. Appendix E attached contains a summary of these property control serial numbers which are not in agreement, and for which a form MG/PG/3 (Report of Property Transactions) must be accomplished in each case and forwarded as stated above.

5. The accomplishment and forwarding of the form MG/PC/2/F (Report of Property Taken Under Control) constitute the final and irrevocable step in establishing control over property subject to MG Law 52. When such a form is not submitted to the Chief Property Control Branch it is assumed that the property is not under property control custody. However, a situation was revealed where 57 files within the Property Control Office - Berlin Sector contained no copy of the MG/PC/2/F (or former MG/PC/2) although other financial statements and succeeding reports had been accomplished by chief custodians and were contained therein. Appendix F attached lists these properties where the forms MG/PC/2/F must be accomplished.

a. With regards to form NO/PG/2/F, a degree of care must be exercised in the accomplishment thereof, otherwise the intent of the form and the

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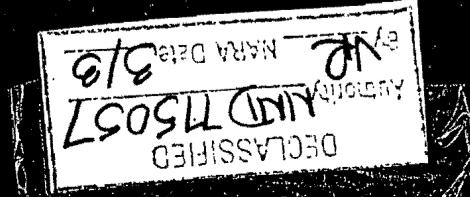


~~This report cannot be used accurately for further references. Three general discrepancies were noted in the accomplishment of such forms which are hereby mentioned for corrective action and as an aid in preventing their re-occurrence:~~

- (1) In stating the value of property (item No. 10 MG/PC/2/F) some custodians use an appraised value at the present time, others use the last taxable value less war-damages and still other custodians state no value because of total war damage destruction. The two former cases are acceptable especially when percentage of destruction is determined and a calculation of the remaining value of the property can thus be derived. However, it is not acceptable to use terms such as "heavily damaged", "totally destroyed" etc. and then list no value as in all cases the land value must remain. Examples of MG/PC/2/Fs where no values are stated are contained in Appendix G attached.
- (2) Under the instructions on the reverse side of MG/PC/2/F, item 10, "Value of Property" it is stated: "In all cases submit a copy of the balance sheet supporting the net worth total shown in 10 a". This means that for operating properties a financial statement will be submitted supporting the value of the property, as shown on the form MG/PC/2/F. Appendix H contains the list of operating properties for which no initial balance sheets have been submitted thereby substantiating the values as shown on forms MG/PC/2/F.
- (3) The form MG/PC/2/F should contain all the assets and encumbrances of a property before arriving at a valuation amount. Sundry reports found within the property files revealed cases of blocked bank accounts, cash in bank, bonds, securities and mortgages which were not considered on the form MG/PC/2/F. These errors were corrected as they were noticed during the examination and instructions were given for the treatment of similar conditions found hereafter.

6. The next item to be considered in this examination was the matter of chief custodians in regard to policies of administration, efficiency of organization, accuracy of accounts and records, and rates of custodian fees. It should be stated generally that in the opinion of the auditors, the control exercised over the chief custodians by the Property Control Office is entirely inadequate. Some chief custodians are still acting under authority granted them by former Property Control officers, each has a different method of charging custodian fees and distributing administration costs and with the exception of one chief custodian, the submission of financial reports as prescribed in MCR Title 17 (Revised 1 September 1946) is not complied with. The chief custodians and the delinquencies pertaining to each are as follows:

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P. 3.
Questions of value
Note: raised in 1949

OFFICE OF MILITARY GOVERNMENT FOR BAVARIA
PROPERTY DIVISION
Property Control & External Assets Branch
MUNICH GERMANY APO 407-A US ARMY

JHL/GED/ri

AG 386 MGBP

25 March 1949

SUBJECT: Questions Regarding MG Law No. 59.

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

1. Reference is made to discussion between Mr. PORTER
of OMGUS and Mr. DICKERSON, this headquarters, on 18 March 1949,
concerning subject matter.

2. Attached is copy of letter as requested by Mr. PORTER.

FOR THE LAND DIRECTOR

J. H. LENNON

Land Property Control Chief

1 Incl.:
Cy ltr PCer District
Ndb./Obpfz., dated 11
Mar 49, subj. as above
(tripl.)

Telephone: Munich Military 4-330

327577

Box 10
File Law 59
Entry DC + EA DMR
RG 200

DECASSIFIED	Autonomy 115057	313	NARA Date 02/02/02
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12 April 1949.

SUBJECT: Questions Regarding Military Government Law No. 59

TO : Office of Military Government for Bavaria
APO 407, U. S. Army

Attn: Land Property Control Chief

1. Reference is made to letter, dated 11 March 1949, by Mr. Johnson, Property Controller Niederbayern-Oberpfalz, in the above entitled matter and your 1st indorsement thereto, dated 25 March 1949.

2. In accordance with the policy of this office the questions submitted therein must await an answer by the Restitution Courts or the Board of Review as predicated upon an official pronouncement by the Allied Reckling Commission or an opinion by Legal Division, OCMUS, and the Office of the Finance Adviser. The question has been submitted to Legal Division, OCMUS, and the Office of the Finance Adviser but no opinion has been received to-date. In the meantime this office has also submitted the question in the form of a request for an advisory opinion to the Board of Review. Upon receipt of any information from any of these sources you will be advised accordingly.

Tel: INNSBADEN 21341
Ext 426FRED K. HANZACK
ChiefPC FILE
12/4
A
24
B
12/4

327578

Box 10
File 59
Entry UC + EA BURG
RG 260

DECCLASSIFIED	3/13	NARA D212 3/13
Authorizing	775057	

OFFICE OF MILITARY GOVERNMENT FOR BAVARIA
PROPERTY CONTROL DISTRICT NIEDERBAYERN-OBERPFALZ
c/o Branch D, Operations Division, OMGB, Regensburg
Germany APO 225 US Army

JBJ/em
11 March 1949

SUBJECT: Questions Regarding Law 59.

TO : Office of Military Government for Bavaria, Property
Division, Property Control & External Assets Branch,
Munich, Germany, APO 407-A, U.S. Army.
Attn.: Mr. DICKERSON.

1. Your comment is requested regarding two points which have come into question in Amicable Settlement Board and Restitution Court cases.

2. An example will probably best illustrate one question: Claimant "A" sold his property to present owner "B" in 1939. The sale was one classified as "white". Claimant "A" received full value for his property and was also able to dispose of the proceeds at his own free will. Claimant "A" now claims his property back in accordance with MG Law 59. The case comes before the Restitution Court which decides that buyer "B" has to return the property to claimant "A" who as compensation for the return of the property must pay to buyer "B" an amount equivalent to the original sales price. Now, how should this amount, which was paid in Reichsmarks, be determined in present Deutschemarks?

- (a) Should it be paid on a basis of one DM to one RM based on 1939 selling price? (In 1939 B paid A 50,000.-RM. Now A gets property back and pays B 50,000.- DM (less depreciation or plus improvement values)).
- (b) Should it be based on current value of property at present time in RM (B paid A the normal price for the property in 1939, 50,000.-RM. Now, inasmuch as B is classified as a "white", the transaction is reversed and A pays B current real value of property and gets property back).
- (c) Should it be based on present purchasing power in DM of the amount then paid in RM (B paid A 50,000 RM in 1939. Today's purchasing value for 50,000 RM is (e.g.) 25,000.- DM. Claimant A pays B 25,000.- DM).
- (d) Or should it be based on 1 DM to every 10 RM paid in 1939? (B paid A 50,000.- RM in 1939. Court now orders B to return property to A for 5,000.- DM).

- 1 -

327579



4. Restitution Court Regensburg at present in the one case raising this point has ruled that settlement "D" would be imposed. This office believes that "C" is a more equitable one, although admittedly more difficult to compute. It is requested that you obtain a ruling on this point which then can be applied uniformly throughout the Zone.

5. The other question which came up recently was as to who assumes financial responsibility for properties which belonged to the former German Reich and its Nazi-and Government organizations and are now under control by Laender organizations. While there is no difficulty in obtaining restitution from them of property which requires no monetary compensation, the question is still unsettled as to who is to assume the financial responsibility in cases where monetary restitution is involved. Present government institutions are quite eager to take over control of former Reichs property but are reluctant if monetary restitution is demanded. There seems to be no law regulating the above issues which become imperative as more and more cases involving these issues are now coming up for decision in the Restitution Court.

FOR THE LAND PROPERTY CONTROL CHIEF:

sgd: JAMES B. JOHNSON
tpd: James B. Johnson
Property Controller
Niederbayern-Oberpfalz

Tel: Regensburg 2001

- 2 -

327580

RG 200	Entry DC + EA Bureau	File LAU 57	Box 10
DECLASSIFIED			
Autonomy NLD 715057			
NLD NARA Date 3/19			

DECLASSIFIED
Authority NNDAS057
By [initials] NARA Date 3/01/00

RG 260
Entry Dec 1948 C 11
File Legal Opinions
Box 11

Re: Law 59, value of properties (for compensation purposes), + currency matter

Legal Opinions

MEMORANDUM

12 April 1949

SUBJECT: Legal Opinion With Respect to the Evaluation in DM's of Unliquidated RM Claims

TO : Office of Finance Adviser

1. You raise the question as to the applicability of para. 1, Article 16, MG Law No. 63 (Conversion Law) to claims of money which arose but were not reduced to a fixed sum of money prior to 21 June 1948. The question is asked with special reference to claims of money arising under MG Law No. 59 (Restitution of Identifiable Property).] ✓

2. To be subject to conversion into a Deutsche Mark claim under MG Law No. 63, a claim must be for the payment of money (para. 1, Article 13), and it must also be a Reichsmark claim within the meaning of para. 3, Article 13 of that Law.

3. Claims for the payment of money are of two kinds:

a. The first kind includes claims which are expressed in a stated amount of money (such as a debt evidenced by a promissory note) and claims for the payment of money where the amount to be paid is arrived at by way of arithmetic computation (e.g. the money obligation is not expressed in local legal tender but in foreign currency).

b. The second kind of claim is for the payment of a sum of money the amount of which is not fixed at the time when the obligation to pay arises (e.g. tort claims for damages and claims in quasi contract). It is with reference to such claims of money that the term "Wertschulden" (or "Geldwertschulden") is used.

4. There is a basic difference between Anglo-American and German law regarding the settlement of the kind of claims referred to in para. 3 b. above. Under our system of law the injured claimant is entitled to money compensation. Only in exceptional cases is the injured person entitled to restitution in kind or specific performance. German law, on the other hand, imposes upon the tortfeasor, upon the person who has been unjustly enriched, and upon the party to a contract who breaches it the duty to make restitution in kind or to perform

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Authority <u>NDPA/SCST</u>	Rec'd on PNY
By <u>EP</u> NAPA Date <u>3/01/70</u>	Carried DIV

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Entry _____
File Legal Opinions
Box 11

specifically his promise. Except in cases where money is the subject matter of the obligation ab initio, the injured person is entitled to restitution in kind (Naturalrestitution). Only where restitution of the thing itself is impossible, or where for certain reasons the law allows the injured party to demand, or the defendant to render, money compensation in lieu of specific restitution, is a claim for the payment of a sum of money created. See Sections 249, et seq., 818 of the German Civil Code (BGB). The demand for money, in cases where the injured party may elect money compensation in lieu of specific restitution, operates to bar restitution in kind. From then on the obligation constitutes a debt which will have to be discharged by payment of a sum of money which, however, must yet be ascertained.

5. The principles of German law governing the settlement of "Wertschulden" apply also to claims for restitution under MG Law No. 59. A claim for restitution under MG Law No. 59 must be based upon a deprivation of specific (identifiable) property. The persecuted person is entitled to return of such property in kind. He has a claim for the payment of a sum of money only under the limited conditions stated in Articles 29, 30, et seq.

6. Whether the claims (Wertschulden) referred to in paras. 3b, 4, et seq., above are Reichsmark claims within the meaning of para. 3, Article 13, MG Law No. 63, has been the subject of considerable discussion among German legal writers. See Deutsche Rechtsprechung, II (251), sheets 25 and 26 (October 1948); Reinicke, 2 Monatsschrift fuer Deutsches Recht, 321, 326 (October 1948), where further references may be found. There is sharp difference of opinion among them as to whether tort claims and similar debts are to be considered Reichsmark claims within the meaning of para. 3, Article 13, where the operative facts giving rise to the particular obligation occurred, but the amount of money to be paid was not fixed prior to currency reform. The most recent comment is found on page 2, No. 7 of the "Oeffentlicher Anzeiger fuer das Vereinigte Wirtschaftsgebiet" (Public Register for the Combined Economic Area), dated 26 January 1949. This opinion (prepared by the Buero fuer Wahrungsfragen (Office on Currency Matters) which was established some months ago under the auspices of the Economic Council and has periodically rendered opinions on currency matters during the last few months) denies that tort claims, which arose but were not reduced to a fixed sum of money prior to currency reform, may be considered Reichsmark claims within the meaning of para. 3, Article 13 of Law No. 63. But a contrary view is expressed in the only judicial decision which has come to our attention - the judgment of the Amtsgericht Hamburg of 14 September 1948 - 9 C 525/48. There the court, without giving any specific reason, ruled that in March 1948, when the wrong occurred, a Reichsmark claim for damages arose which must be converted into a Deutsche Marks claim at the rate of 10:1.

7. In consideration of the foregoing, and for reasons hereinafter stated, this Division has reached the conclusion that "Wertschulden" as described above are not to be deemed convertible Reichsmark claims within the meaning of para. 3, Art. 13, MG Law No. 63. In our opinion of 20 Jan. '49 (Item 2 of the c/s by which this Memo. is transmitted), we took the opposite view, guided by the phraseology used in para. 3, Art. 13. We then interpreted the phrase "which would have had "to be discharged in Reichsmarks..." as referring to unliquidated claims of money.

DECLASSIFIED

Authority MDP/SCS/
By JN NARA Date 3/01/00

RG

Entry

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Rec'd on Prop
Contract DIV

File Legal Opinions
Box 11

Upon further study of the matter we are satisfied that the draftsmen of MG Law No. 63 did not intend para. 3, Art. 13 to include so-called "Wertschulden", but only claims of the kind mentioned in para. 3a above. This being so, Law No. 63 is silent on the question whether or not claims of the kind mentioned in 3b above are subject to conversion into Deutsche Mark claims in accordance with para. 1, Article 16 of that Law.

8. As long as the tortfeasor, the unjustly enriched person, the contracting party who failed to fulfill his promise, the restitutor, or other person similarly situated is bound to make restitution in kind - as long as the innocent party (not having elected monetary compensation) may demand restitution in kind - it seems evident that no claim of money which may be converted into a Deutsche Mark claim exists. The question whether a Reichsmark claim existed prior to currency reform can not arise unless and until the obligation has become a debt to be discharged by payment of a sum of money.

9. This opinion supersedes, so far as it is in conflict therewith, our earlier opinion referred to in para. 7 above; but our interpretation of MG Law No. 63 has no binding effect on German courts or other German authorities charged with application and enforcement of that Law.

WILLIAM E. McCURDY
Acting Director

Telephone: 45042 (Mr. Husserl)

327583

Netherlands BZ
File 3204 Archive de diplomatico Consular post
(1856-1945-1954 (- 1963))

CABLE ADDRESS: "LADYCOURT," NEW YORK

JUN 13 1944

NO. 4564

AFD 6/16/44

SULLIVAN & CROMWELL

48 Wall Street, New York 5.

June 12, 1944

The Honorable B. Kleijn Molekam
Minister Plenipotentiary,
Netherlands Embassy,
Washington, D. C.

Dear Mr. Minister:

I am wondering if you are familiar with the Bill known as the McCarran Bill in the Senate (S-1928) and as the Summers Bill in the House, which would amend in important respects the Trading with the Enemy Act. In essence the bill provides that in the case of vested property of a foreign national, his only right to recover is a claim to the Alien Property Custodian, the granting of which is wholly a matter of administrative discretion. If the claim is not granted, the only relief of the alien is after the claim is "finally denied" (which leaves the time wholly in the discretion of the administrative agency) to file a claim for money against the United States in the Court of Claims "to establish that he is entitled to the protection of the just compensation provisions of the fifth amendment of the Constitution of the United States and that there has been a taking of his property for public use within the meaning thereof, and, if he so establishes, to recover just compensation therefor".

It is by no means certain that a vesting under the Trading with the Enemy Act would, in fact, be a "taking of property for public use within the meaning" of the fifth amendment to the Constitution. Also it is not entirely free from doubt that an alien "is entitled to the protection of the just compensation provisions of the fifth amendment". Furthermore, such a proceeding is a highly technical and long, drawn out proceeding and the question of valuation is difficult and subject to much hazard.

The Bill gives to American citizens a right to recover the property in specie by court action. In taking this right away from friendly aliens, it may be that treaties are violated such as the multi-lateral Convention for Protection of Industrial Property to which I think both your government and the United States Government are parties and which

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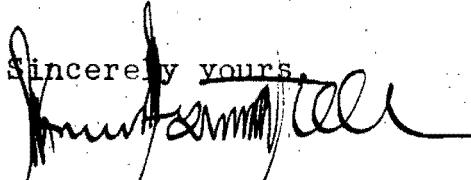
The Honorable B. Kleijn Molekamp

-2-

provides in Article 2 that "Nationals of each of the contracting countries shall in all other countries of the Union, as regards the protection of industrial property, enjoy the advantages that their respective laws now grant, or may hereafter grant, to their own nationals".

The Bill in question is, I understand, an administration measure. It was only recently introduced and is being pushed rapidly without apparently any adequate independent consideration.

Sincerely yours,


John Foster Dulles

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NETHERLANDS EMBASSY
WASHINGTON, D. C.

January 23, 1942

LETTER AND ADDRESS PIETERS' ROYAL NETHERLANDS STREAMSHIP COMPANY
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Draf. Approved
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Memorandum with Respect to the Powers of
the Alien Property Custodian over Patents
Owned by Nationals of Allied Nations who
are within Territory which Germany, through
Invasion, has occupied.

1. The Alien Property Custodian has been appointed under, and exercises powers conferred by, the Trading with the Enemy Act. That Act (hereinafter generally referred to as the "Act") was originally adopted on October 7, 1917, with relation to the First World War. It was several times amended during and with relation to that war. It was further amended and invoked in 1933 in relation to the financial crisis that then existed and the most recent amendment was adopted December 18, 1941 immediately following our formal entry into the Second World War.

2. There is considerable doubt as to the present effectiveness of provisions of the Act adopted with relation to the First World War. In this connection the Report of December 15, 1941 of the Judiciary Committee of the House of Representatives dealing with the proposed amendment of Section 5(b) of the Act, said with reference to the Trading with the Enemy Act: "Some sections of that Act are still in effect. Some sections have terminated and there is doubt as to the effectiveness of other sections."

3. The Act, as a result of the amendment made in December, 1941, now contains two separate sections dealing with "vesting" or "seizure". These two sections are Section 7(c) which is part of the First World War legislation, and Section 5(b), as amended, with relation to the Second World War situation.

Section 7(c) permits the seizure by the Custodian of "any money or other property including patents" which, after investigation, are found to be owned by "an enemy or ally of enemy", and "enemy" is defined by Section 2 of the Act to include any person "resident within the territory (including that occupied by the military or naval forces) of any nation with which the United States is at war".

Section 5(b), as amended, permits the "vesting" in such agency as the President may designate, of "any property in which any foreign country or a national thereof has an interest". The Custodian is presently the agency designated by the President in whom such property or patents would vest.

Therefore, both Section 5(b) and Section 7(c) would, by their terms, authorize the vesting or seizing by the Custodian of patents which were the property of nationals of the class in question, i.e., nationals of an allied state who were within territory which Germany,

by invasion, had occupied. Under Section 5(b) this would be because such persons were "nationals of a foreign country" and under Section 7(c) because such persons fall within the technical definition of "enemy" contained in Section 2 of the Act.

4. A possible question exists as to whether Section 7(c), which we have noted was adopted in relation to the First World War, is still operative. It has been suggested that this Section, although never expressly repealed, may have either lapsed or been repealed, by implication, by the recent amendment of Section 5(b).

We doubt that Section 7(c) would be held to have lapsed. Frequent amendments of the Act by Congress since the close of the First World War (no less than sixteen amendments from July 1920 to May 1940) suggest that Congress has considered the Act as a whole to be operative and while certain sections thereof may be of such a special nature as not to have practical significance in relation to the present situation, this is quite a different thing from saying that sections which do have practical significance, like Section 7, have, by reason of lapse of time or change of circumstances, ceased to have the status of law.

A stronger argument can be made that Section 5(b), as amended in December 1941, repealed by implication the provisions of Section 7(c) in that that amendment of Section

5(b) showed an intent by Congress to provide a new, comprehensive and, by implication, exclusive method of dealing with alien property. An argument along these lines was advanced on behalf of the Custodian in the recent case of Draeger Shipping Co., Inc. and Frederick Draeger v. Leo T. Crowley, as Alien Property Custodian, (U.S. Dist. Ct., So. Dist. N.Y. decided February 18, 1948). The question there was whether Section 9 of the Trading with the Enemy Act (dealing with the right of non-enemies to recover their property) was still operative. The Court held that it was. In our opinion, the considerations which argue for the continuing efficacy of Section 7(c) are even stronger than those which can be adduced in favor of the continuing efficacy of Section 9. While no unqualified opinion can be given until the matter has been passed on by the courts, we believe that it will be held that Section 7(c) is still operative.

5. In view of the conclusions expressed in the two preceding paragraphs, we are of the opinion that the Custodian can, under Section 5(b) vest, or under Section 7(c) seize, patents owned by the class of persons in question.

6. We turn now to consider the powers and duties of the Custodian with respect to property vested by him under 5(b) or seized by him under 7(c). We first consider

this matter in relation to property vested under 5(b).

7. Section 5(b), as amended, provides that "During the time of war or during any other period of national emergency declared by the President" the President may:

- 1) "investigate, regulate, or prohibit" any transactions in foreign exchange, gold or silver coin or bullion, currency or securities; and
- 2) "investigate, regulate, direct and compel, nullify, void, prevent or prohibit" transactions involving "any property in which any foreign country or a national thereof has any interest, by any person, or with respect to any property, subject to the jurisdiction of the United States"; and
- 3) that "any property or interest of any foreign country or national thereof shall vest" in such agency as the President may designate, "and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States".

Various theories may be and have been advanced as to the nature of the title and right to use which results from a "vesting" under the third of the above-enumerated powers. We here consider those which can most plausibly be advanced:

A. Eminent domain. The structure of Section 5(b) is not that of an eminent domain statute. Neither is that the pattern of the Trading with the Enemy Act, into which 5(b) was introduced. In the case of an eminent domain statute there should be provision for a finding that the use of the particular property condemned is required by the United States. Such a finding should be made before any property is condemned. Furthermore, the constitutional obligation to pay just compensation must be recognized and is customarily recognized and provided for by the eminent domain statute itself. Neither 5(b) nor any other section of the Act makes provision for either of these matters. (See by way of contrast the Act of October 16, 1941, authorizing the requisition of military equipment, where both provisions appear.)

It may be suggested that this omission of right to just compensation is cured by the so-called Tucker Act (Section 250 of the United States Code). That Act provides that certain classes of claims against the United States

may be brought in the Court of Claims. The classes of permitted claims would probably include claims for property condemned through exercise of the Government's right of eminent domain. However, as noted, the legislative practice, in the case of an eminent domain statute, is not to rely on the Tucker Act and it would be particularly surprising if that were done here for there is grave doubt that the Tucker Act could be invoked. For Section 7(c) of the Trading with the Enemy Act provides that "the sole relief and remedy of any person having any claim to any money or other property heretofore or hereafter conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian * * * shall be that provided by the terms of this Act". This would, by its terms, preclude a right to compensation under the Tucker Act and, if so, this Act could not be relied upon to save the constitutionality of Section 5(b) as an eminent domain statute.

It seems to us that if Congress had conceived 5(b) to be an eminent domain statute requiring just compensation for property taken thereunder, Congress would have made it clear, by amendment to the above-quoted portion of Section 7(c), that at least there was preserved the right to just compensation through the Court of Claims under the Tucker Act.

For such reasons above set forth, we believe that Section 5(b) is not properly to be construed as an eminent domain statute.

B. Confiscation. It seems to us that Section 5(b) was not intended by Congress to be a confiscation statute. As noted, Section 5(b) is operative not merely in time of war, but "during any other period of national emergency". It applies not to "enemy" property, but to all property in which any friendly Government or national thereof has an interest. Thus, if Section 5(b) were a confiscatory statute, it would authorize confiscation not merely in time of war, but in time of national emergency, of all British, Canadian and South American property in this country. It would, as regards the victims of German and Japanese aggression, have authorized a completion of that despoliation of the innocent which the enemy has begun. Not only is there nothing in the Congressional hearings or debates to suggest this, but on the contrary there is ample indication that Section 5(b) was, to an extent at least, looked upon as a measure to protect the invaded peoples from being despoiled through German coercion. The Custodian recognizes this when he says in "Patents at Work - a Statement of Policy" that "This Office has a great measure of responsibility toward the nationals of enemy-occupied

countries * * * There is the ever-present danger of transfer of title under duress. In order to prevent the enemy from making use of these patents, in order to safeguard, under this country's broader responsibilities, the rights of the unfortunate residents of occupied countries * * * title to these patents and applications is also being vested in the name of the United States Government."

Nothing in the Congressional hearings or debates suggests any intention to confiscate the property of friendly allies, neutrals and the victims of German aggression. We do not believe that the courts would attribute to Congress so shocking a purpose, unless this had been made so clear by the law and its legislative background, that no alternative construction was available. This is so far from being the case that we have little hesitation in concluding that Section 5(b) was not intended to and does not authorize a confiscation of the property of foreign countries and their nationals.

C. Regulation. Having rejected the theory that Section 5(b) is an eminent domain statute or a confiscation statute, we turn to consider what meaning can be given it consistently with the views above expressed. The conclusion to which we come is that vesting under Section 5(b) was

intended to give the President, through such agency as he might designate, power, through a vesting of legal title, to assure the effectiveness of the regulatory and control features which are the heart of Section 5(b). In this connection it might first be noted that there is nothing in Section 5(b) to require that the "agency" in which title shall vest shall be the Alien Property Custodian. Indeed, at the time that Congress amended Section 5(b) to incorporate "vesting", the office of Alien Property Custodian was vacant, and originally the designated "agency" for vesting was the Secretary of the Treasury, who was then, and still is, carrying out regulations.

Section 5(b) immediately prior to its amendment in December, 1941, was a purely regulatory section which, during time of war or during any other period of national emergency, authorized the President to regulate and prohibit certain financial transactions and dealing in gold or silver, bullion or currency, whether these were transactions of aliens or citizens, with a broader scope of power over "evidences of indebtedness or evidences of ownership of property in which any foreign state or a national or political subdivision thereof, as defined by the President, has any interest". By the amendment of December 1941, the regulatory power was extended to include "any property

in which any foreign country or a national thereof has any interest" and as a culmination of (1) the power to regulate all financial transactions, domestic or foreign, and (2) the power to regulate transactions involving any foreign property, there was added a third and culminating power, namely, the right to vest property of the latter category. The Congressional Report on the bill which effected these changes said that "The bill to a considerable extent follows the pattern of existing law and is a logical extension of the present foreign property control system, which has been operating very satisfactorily for almost two years. The extension could be put into immediate operation with a minimum amount of trouble or dislocation of legitimate activities".

"The pattern of existing law" of which the present amendment "is a logical extension" is a pattern of regulation and control and the extension effected is entirely "logical". In the case of American citizens who owe an allegiance to the United States and who are, broadly speaking, personally amenable to rules and regulations, the results desired could be obtained by reliance upon rules and regulations. In the case of foreign nationals, however, there was neither that allegiance to the United States nor, usually, that personal presence here, which could be relied upon to make effective regulation that depended merely on

"rules and regulations". Property here could, to be sure, be "frozen", but without something more, regulation alone as regards such persons might not be effective to "direct and compel" an affirmative use of their property in desired channels. Therefore, to assure the effectiveness of the regulation, both negative and positive, authorized by the preceding portions of the amendment, a vesting of title was authorized so that the United States might thereby assure for itself the effectiveness of the positive regulation which was and is a primary theme of Section 5(b).

To be sure Section 5(b) after providing for vesting goes on further to provide that the vested property shall be "held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States". Such "benefit" of the United States is not, however, in our opinion, itself a benefit in a proprietary capacity. To vest for that purpose would be to condemn in exercise of the power of eminent domain, a construction which we have rejected because of the failure of the Act to provide for a finding that the particular property is, in fact, needed by the United States and because of the failure to make adequate provision for just compensation as required by the Constitution. The "benefit" to the United States sought to be secured seems to us to

be precisely the same benefit as is sought to be secured by the preceding portion of the amendment and which benefit is primarily to be secured by regulation applicable both to foreign and domestic property. The right to sell or liquidate is not inconsistent with this, for once title is vested, circumstances may well arise where a sale or liquidation is indispensable to preserve values intact. Experience in the First World War showed that the Custodian, even when acting purely as a "conservator", had occasion to use such powers as those of sale and liquidation.

A further consideration that suggests that Section 5(b), as amended, is essentially a regulatory statute is that any other construction would make it difficult to reconcile this section with Section 9. That is the section which permits persons not enemies or allies of enemies to reclaim from the Custodian property which may have been "seized by him". It seems to us that this Section 9 deals with property which has been seized by the Alien Property Custodian in his own right pursuant to Section 7, which confers such power directly on the Custodian. In the case, however, of Section 5(b) the power to vest is not a power that is conferred upon the Custodian but upon the President and while the President has in part delegated his power to the Custodian, he has also delegated it in part to the

Secretary of the Treasury. (See Executive Order of July 6, 1942 whereby the President apportions his 5(b) authority between the Alien Property Custodian and the Secretary of the Treasury.) The language of Section 9 does not appear to us to be applicable to property vested by authority of the President pursuant to 5(b). Superficially it might seem applicable if the President has delegated his authority to the Custodian. But the superficiality of that view is revealed when we note that Section 9 is obviously inapplicable where he has delegated his authority to some other agency such as the Secretary of the Treasury. Obviously, if Section 9 is applicable to give relief as against 5(b), it was not intended that the right to such relief would exist or cease to exist according to the President's choice of an agency. Nevertheless, in the Draeger case, it was held that property taken by the Custodian under 5(b) might be recovered in the case of a person claiming to be an American by resort to Section 9. This conclusion was reached because the Court felt this necessary in order to save the constitutionality of 5(b), the Court apparently assuming that 5(b) was confiscatory and that, unless saved by Section 9, it would be violative of the "due process" clause, at least as regards Americans entitled to the benefit of "due process". The view of 5(b) which we take appears not to have been considered by the Court and if its assumption regarding the nature of

5(b) be accepted, the constitutionality of vesting under 5(b) is still in doubt except as the President happens to delegate that authority to the Alien Property Custodian. The constitutionality of vesting under 5(b) would not be saved to the extent the President has delegated the power to vest money and securities in the Secretary of the Treasury. Furthermore, if Section 9 is applicable to property vested by the Custodian under 5(b), it would seem that friendly aliens, whose property here is probably entitled to the benefit of the "due process" clause, could equally avail of Section 9 and thereby effectively destroy the intended scope of 5(b). All of these difficulties, both constitutional and of statutory reconciliation, are largely avoided if 5(b) is given the construction which seems to us to be the correct one. In that event there would be no constitutional reason to strain Section 9 to make it applicable to property vested under 5(b) and the natural construction would be put on Section 9, namely, the construction that it applied only to property seized by the Custodian under 7(e).

We therefore conclude that in the case of property vested under 5(b) there is neither a confiscation nor a condemnation through exercise of the power of eminent domain, but a vesting of title and of right to control and use, so as to assure the effectiveness of the system of regulation which

is the primary goal of Section 5(b). The use made of the property vested should accordingly be conservatory, subject only to such incidental loss in principal value or income as is an incident to lawful regulation and as could be lawfully imposed, by regulation, on American nationals owning like property.

8. We now turn to consideration of the duties and powers of the Custodian with respect to property seized by him under Section 7(c). This Section, as we have observed, is a First World War section and there are many decisions, including several by the United States Supreme Court, dealing with the title and powers of the Custodian with respect to property seized by him. While the language of the opinions in these cases cannot in all respects be satisfactorily reconciled, it seems to be reasonably clear that the Custodian was looked upon essentially as a conservator. His original powers were those of a common law trustee. These powers proved inadequate and there was added to them, by amendment of Section 12, the power to sell and exercise otherwise powers of ownership "in like manner as though he were the absolute owner thereof". Subject, however, to an exception to which we shall allude, the Custodian appears to have been under the duty to seek to conserve the value of seized property and in the event of sale to seek to realize the highest possible value thereof through "public sale to the highest bidder". Section 12 further provides that:

"After the end of the war any claim of any enemy or of an ally of enemy to any money or other property received and held by the alien property custodian or deposited in the United States Treasury, shall be settled as Congress shall direct * * *"

In Woodson v. Deutsche, etc., Vormals, 282 U.S. 449, 454, the United States Supreme Court, after referring to this quoted portion of Section 12, said:

"While this suggests that confiscation was not effected or intended, it plainly shows that Congress reserved to itself full freedom at any time to dispose of the property as might be deemed expedient and to deal with claimants as it should deem to be in accordance with right and justice, having regard to the conditions and circumstances that might arise during and after the war. * * *"

It thus seems that as regards property seized under Section 7(c) the Custodian, while he had full legal title and the power to use and sell, was under a duty to exercise his powers consistently with conserving the values he had received so that his administration would not, of itself, work a confiscation which by destroying the fund, would deprive Congress of its reserved power to return values equivalent to those taken, if and as circumstances might make this seem to Congress to be appropriate.

As a possible exception to this general rule, Section 12 provided that the Custodian, in the event that he sold seized property, would not have to sell it at public sale to the highest bidder in any case where "the President

stating the reasons therefor, in the public interest shall otherwise determine" (Section 12 as amended March 28, 1918). This the President did in the case of a large number of patents that had been seized by the Custodian from Germans and which the President directed to be sold at a nominal consideration to the Chemical Foundation, which was a quasi-public body. This exceptional treatment was subsequently attacked, but the constitutionality and validity of the President's action was on the facts sustained (United States v. Chemical Foundation, 272 U.S. 1) on the ground, among others, that the patents in question were admittedly enemy (or German) owned subject to total confiscation and that on such a state of facts, there was no occasion to give the Act a narrow construction.

We assume that Section 12 is still operative, at least as regards property which the Custodian has seized under 7(c) and that if the exceptional procedure of Section 12 were invoked, the patents of true enemies could be disposed of for a nominal or no consideration if "the President stating the reasons therefor, in the public interest" should so determine.

The President has as yet made no attempt to invoke this exceptional procedure of Section 12 or operate thereunder and we gravely doubt that he would do so or perhaps could do so, with respect to property owned not by true

enemies, but by nationals of allied countries who had merely suffered the misfortune of having their territory occupied by the enemy. We do not believe that Congress intended this exceptional power given the President to be exercised in a way which would be contrary to our professed policy to liberate the persons and the property of such victims of enemy aggression and which would be contrary to the practice and custom of nations which is so well-established as to approach an "international law" on the subject. The "public interest" which Congress directed should be the President's guide is, we would assume, an interest compatible with the publicly declared intentions and long established practice of the United States which is not to confiscate and destroy the property of allied peoples even though technically they might fall within the definition of "enemy" so that their property might appropriately be taken into custody as against such risks as the risk pointed out by the Custodian of "transfer of title under duress" by the enemy.

9. We thus conclude that whether patents owned by the class of persons in question are vested in the Custodian under Section 5(b) or seized by him under Section 7, he is under a duty to conserve their value subject to putting the patents to a use comparable to that which, under

the power of regulation, could be required of American owners of such patents.

10. We now turn to consider the question of ultimate relief of persons within the class in question whose patents may have been taken by the Custodian. This calls for separate treatment as regards patents taken under 5(b) and patents taken under 7(c). We will first consider the relief in case of seizures under 7(c). This section is historically earlier than 5(b), as amended, and affords an indispensable background for the consideration of 5(b).

11. Section 7(c) relates, as noted, to property which the President shall have determined belongs to an "enemy". Section 9 provides that "any person not an enemy" whose property may have been seized by the Custodian may reclaim his property and if within sixty days the claim is not granted, the claimant may institute a suit to establish his interest and if so established the court shall order the delivery to him of the property held by the Custodian.

The United States District Court in the Draeger case above referred to, held that Section 9 was still operative and entertained a suit by a person claiming to be an American for the recovery of property which had been taken by the Custodian.

Section 7 provides, as we have noted, that the sole relief of any person having any claim to any property seized

by the Custodian "shall be that provided by the terms of this Act" and while the Act contains, through amendments made after the First World War, certain specific provisions for the return of property, it is probable that none of these "return" provisions applies to property, if any, which has been seized by the Custodian subsequent to the date of such amendments.

Since the class of persons we are considering are technically "enemies" within the definition of Section 1 of the Act, it would thus appear that they have no present right to return of property seized under Section 7, but will be dependent upon the settlement of their claim "after the end of the war *** as Congress shall direct".

It is to be observed that the Supreme Court has, in substance, held that a right to return, such as that given to non-enemies under Section 9, does not come into being if between the date of seizure and the date of claim the status of the owner has changed so that he has ceased to be an "enemy" (Swiss Insurance Co. v. Miller, 267 U.S. 42). Such a section operates, the Supreme Court has held, only to give relief if the original seizure was erroneous on the basis of the facts then existing. If the principle of that case is adhered to, it would appear that no relief under Section 9 could be obtained if, for example, the invaded countries of

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Europe were liberated, so that their residents were no longer technical "enemies".

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If. In the case of property vested under 5(b), we come, however, to a different conclusion as to right to return after the war. If the construction of 5(b) which we have adopted above is sound, then vesting thereunder is merely an act in aid of regulation. The regulation itself is only "during the time of war or during any other period of national emergency declared by the President". It would seem to us, therefore, that when regulation under 5(b) was no longer legal due to the fact that the time was no longer a "time of war or of national emergency" the power of the Custodian to hold property vested in him under 5(b) would cease and this property and its increment, or the proceeds thereof as sold or liquidated, should promptly then be returnable to the former owner.

The Custodian has established administrative procedure whereby "any person not a national of a foreign country designated in Executive Order No. 8389 as amended" may file a claim within one year after vesting (which time has now in some cases been extended). The nationals thus excluded from making claim, in the main, are true enemies and nationals of allied countries who are mere technical enemies under the definition of Section 1 of the Act could thereupon file a claim. However, the administrative procedure appears to be

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12. In the case of property vested under 5(b) the position as regards right to return may be somewhat different than where property has been seized as "enemy" property under 7(c). If the construction of 5(b) which we have adopted above is sound, then vesting thereunder is merely an act in aid of regulation. The regulation itself is only "during the time of war or during any other period of national emergency declared by the President". It would seem to us, therefore, that when regulation under 5(b) was no longer legal due to the fact that the time was no longer a "time of war or of national emergency" the power of the Custodian to hold property vested in him under 5(b) would cease and this property and its increment, or the proceeds thereof as sold or liquidated, should promptly then be returnable to the former owner.

It should perhaps be observed that the Supreme Court in the Swiss Insurance Company case, *supra*, held that the war did not ipso facto entitle a neutral to return of property which had been seized because of a technical "enemy" status at the time. In this connection the Court relied upon Section 12 to indicate that "Congress did not intend that such a right should exist". That is the section which provides that "After the end of the war any claim of any enemy or of an ally of enemy to any money or other property received and held by the alien property custodian or deposited in the United States Treasury, shall be settled as Congress shall direct". It seems to us clear that in the

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case of 5(b) no such intent can be imputed to Congress because 5(b) deals not with "enemy" property but with the property of any foreign country or national thereof. There is thus no expressed Congressional intent that the vesting under 5(b) should continue until "Congress shall direct" rather it seems to us that the Congressional intent with respect to 5(b) is to be found in that section itself, the opening language of which is "During the time of war or during any other period of national emergency declared by the President, the President may".

purely voluntary, with no duty on the part of the Custodian to return the property claimed unless he chooses to do so. Presumably he would do so only when the claimant makes it apparent that the property was vested on the basis of misinformation with reference to an essential fact. In the case of patents owned by persons of the class in question, the Custodian has vested the property with full knowledge of the facts and in pursuance of a deliberate intention to vest in himself the ownership of patents of nationals of allied countries who have fallen under German control. It would not thus appear that the administrative procedure set up by the Custodian affords any opportunity for relief even if it were physically possible for the owners to make a claim, which it is not.

We have already referred to Section 9 which deals with the right of a person who is not an enemy or an ally of enemy to recover property seizable by the Custodian. This section is of no avail to persons of the class in question. Not only are they physically unable to make a claim, but technically they are "enemies" within the definition of the Act. Furthermore, as we have said, it seems to us unlikely that Section 9 applies to property vested under 5(b), although, as we have pointed out, the contrary was held in the Draeger case, and that view might be sustained if 5(a) is, contrary to our view, interpreted as a confiscatory and not a regulatory enactment.

We thus conclude that in the case of property owned by persons within enemy-occupied territory and vested under Section 5(b) there is no present right to secure a return but that such a right may arise with the termination of the war or period of emergency.

13. In view of different rights which may arise, depending upon whether property has been vested under 5(b) or 7(c), it is relevant to consider which section is being invoked by the Custodian.

The language used in the Custodian's orders has varied from time to time. Certain of his vesting orders are expressly stated to be pursuant to Section 5(b), others, and the most recent, are equivocal on this point, and while they use in part language drawn from Section 5(b), they state that the seizure is "under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law", and it is recited that the Custodian has "made all determinations and taken all action * * * required by said Executive Order or Act or otherwise".

We have doubt as to whether the Custodian can hereafter claim to have seized under Section 7 unless his order recites that there has been a determination by the President (or by the Custodian as his agent) that the property seized is owned by an "enemy". We believe that such a "determination" must be a publicly-expressed one and that in its absence the

vesting would, as a matter of law, be deemed to be, under Section 5(b). The fact, if as we believe it is the fact, that a quite different status attaches to property seized under 7(c) and property vested under 5(b) requires that the Custodian make clear his election.

14. We briefly summarize our conclusions as follows:

A. The Custodian could seize patents belonging to the class of persons in question either under the power of Section 5(b) or Section 7(c).

B. In either event he is under a duty to conserve the value of the property seized, subject only to such diminution in capital value, income or change of form through sale or use, as would be appropriate and lawful through regulation of like property owned by Americans. While Section 12 permits of a possible exception, we do not deem that exception to be presently significant.

C. There is no present right to recovery of property seized under either 5(b) or 7(c).

D. In the case of property vested under 5(b) there is probably a right to its restoration, with its increment, in whatever form it then is at the end of the war or proclaimed emergency.

E. In the case of property, if any, seized under 7(b) there is no right to return except as Congress may hereafter legislate.

F. Vestings under such forms of order as we have above alluded to would probably be held, as a matter of law, to be under 5(b).

In concluding, we desire again to emphasize the great difficulty of coming to definitive conclusions which are free from substantial doubt. We are here dealing with an Act which was originally adopted in relation to the First World War; which was amended during that war and frequently further amended during the post-war period to reflect our then national policies; which was reamended in relation to the fiscal emergency of 1933; which was again reamended with relation to the situation that existed during the period of the Second World War while the United States was a neutral, and again amended immediately after our formal entry into the Second World War. All of this has occurred without any repeal of old provisions to replace them with new. Thus the present enactment as it stands on the statute books reflects many different policies and attempts at dealing with now obsolete situations, and reconciliation of the whole is most difficult. There is no judicial interpretation to aid us except those that were rendered in relation to the First World War and its aftermath and as those only dealt with a comparatively few questions the opinions are themselves not easy to reconcile. The only significant judicial decision in relation to the Act.

as it now stands is that in the Draeger case, which so far has been decided only by a court of first instance. Future decisions will likely be made in relation to specific cases and may not involve any considered view of the Act as a whole. This increases the likelihood that the ultimate court decisions may not coincide with the views we have here expressed.

We further point out that we have not attempted in this memorandum to exhaust all of the possible considerations for or against alternative views. We have only expressed those which seem to us to be the most significant and controlling. Many subsidiary considerations could be adduced but they would not, in our opinion, alter the broad conclusions to which we have come.

Supplemental Memorandum

In our main memorandum we expressed the view that the Custodian has a duty to conserve the value of the property of aliens acquired by him subject to such incidental loss or change of form as would be appropriate and lawful through regulation of like property owned by Americans. A possible exception is through exercise of the power of the President under 12, which power he has not yet sought to use and which would probably be inapplicable to property taken under 5(b), even if, indeed, it is applicable at all to property not owned by true enemies.

In fact, the Custodian is licensing patents royalty-free for the duration of the war and six months thereafter, at the end of which time "royalties which are reasonable on the basis of prevailing commercial practice will be charged". To license royalty-free a wasting asset, such as a patent which has only a limited life, is pro tanto a confiscation and not a conservation, and we think, for reasons stated in our main memorandum, that there is grave doubt that the Custodian has lawful authority to do this.

It is not, however, apparent that there is any relief available. Quite apart from any legal right, the former owners, being in enemy-occupied country, are not in a position themselves to do anything. The Netherlands Government would

appear to have no legal standing since, as we understand, the Royal Netherlands Decrees are not construed by that Government as vesting in them title to the patents of Netherlands subjects in German-occupied territory.

If the Netherlands owners were physically able to prosecute for relief, there would still be grave doubt as to any legal remedy being available to them. Suit might, of course, be brought against the royalty-free licensees to force them to pay reasonable royalties. It is very doubtful, however, that such a suit would succeed. They have dealt with the person (the Custodian) who indubitably has legal title. The wrong, if any, would be a wrong done not by the licensee, but either by the United States Government or by the Custodian personally.

The Government cannot be sued without its consent, enjoying the immunity of sovereignty, and the consent embodied in the Tucker Act is of very doubtful availability since if a wrongful confiscation has occurred then the claim would be one "sounding in tort" and not in contract, express or implied. Such claims sounding in tort are excluded by the Tucker Act.

There might conceivably be a personal right of action against the Custodian in his individual capacity. However, when a person has acted as an official in a bona fide effort to discharge his duties and without personal profit to

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himself, the courts are very reluctant to hold him personally liable even though it may be their view that, the law being doubtful, he has, in fact, acted illegally. Furthermore, the practical relief that could be obtained in this way would doubtless be relatively unsubstantial.

Injunctive relief might in theory be available. However, this type of relief to be obtained must be sought prior to the doing of the act complained of. Thus, if the former owner of a vested Netherlands patent knew of a proposed royalty-free licensing of his patent he might, if he acted promptly, successfully enjoin the Custodian from such licensing. Here, again, it is, however, academic to consider the availability of such injunctive relief since, as a practical matter, the owner in the Netherlands cannot act to enjoin the licensing. In view of this practical situation we think it not worthwhile to express any considered judgment as to whether or not such injunctive relief is, in theory, available.

It is, of course, possible that some practical relief might be obtained through persuading the Custodian to some voluntary change of policy. A reading of the published statements of the Custodian and a study of the various vesting orders which he has issued indicates that he is in doubt as to his powers and proper policy as against persons who, like Netherlands nationals, are "enemies" only in a highly technical sense. He has, indeed, in his statement of policy said

that the "disposition of patents belonging to nationals of countries occupied by the enemy will be the subject of discussion between this Government and the governments in exile of these countries". This suggests that if the matter were taken up promptly with the Custodian before his policies are further crystallized and irrevocably carried into effect, some solution consistent with the proper interests of the Netherlands might be arrived at.

In the absence of relief through some agreement with the Custodian, it appears that there may be a strong case for diplomatic representations.

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MINISTERIE VAN FINANCIËN

GERENALE THESAURIE
AFDELING: DIRECTIE BEWINDVOERING.

No. 173.

's-GRAVENHAGE, 20 October 1954.

ONDERWERP:

Onderhandelingen Nederland-Amerika.

Aan Zijne Excellentie de Ambassadeur
der Nederlanden,
1470, Euclid Street,
WASHINGTON 9, D.C.
U.S.A.

Hierbij moge ik terugkomen op onze bespreking, welke op 27 September j.l. te Utrecht, in aanwezigheid van Jhr. Mr. van Lennep, Dr. Soutendijk en Mr Witte heeft plaatsgevonden, en waarvan een verslag is vervat in een notitie van de hand van Mr Witte, welke Dr. Soutendijk mij toeziend bij zijn brief van 29 September j.l., FA/1083/320; tijdens deze bespreking werd besloten, dat omtrent de te volgen procedure hier ter stede nog nader overleg zou worden gepleegd.

Naar aanleiding hiervan moge ik U in overweging geven aan te sluiten op de notawisseling, welke op 15 en 25 Juni j.l. heeft plaatsgevonden tussen U en het State Department.

De nota van het State Department d.d. 25 Juni eindigt met de volgende woorden:

"As these enclosures indicate, it is the Department's desire and sincere hope that in the ensuing months progress may be made in order that the remaining problems in this field may be resolved in discussions beginning in the fall."

Het lijkt mij gewenst, dat U zich te dezer zake thans, eventueel schriftelijk, doch bij voorkeur mondeling, wederom in verbinding stelt met de heer Merchant en hem officieel mededeelt, dat U, aangezien thans van Nederlandse zijde praktisch alle gevraagde inlichtingen zijn verstrekt, gaarne zou willen vernemen, wanneer de besprekingen kunnen aanvangen.

Uit het antwoord van de heer Merchant zal dan kunnen blijken, waarin de ontstaan vertraging haar oorsprong vindt. Officieel is dit immers nimmer ter kennis van de Nederlandse regering gebracht.

Ik moge hierbij opmerken, dat de problemen, welke zijn ontstaan, doordat ten gevolge van plaatsgevonden hebbend rechtsherstel een lagere waarde bij het Nederlandse Beheersinstituut aanwezig is dan indertijd door de Duitse dochtermaatschappijen der Amerikaanse claimants is geïnvesteerd, zich in enige omvangrijke mate slechts voordeel bij de claim van de New Jersey Industries Incorporated, van welke Amerikaanse vennootschap de Duitse dochtermaatschappijen (het Koester-concern) tijdens de oorlog ca. f. 8.600.000,- in Nederland in Joods bezit hebben geïnvesteerd,

-terwijl-

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terwijl het Nederlandse Beheers Instituut thans slechts ca.f.2.000.000,- afkomstig van het Koester-concern onder zich heeft. Ik moge hierbij aan tekenen, dat naar aanleiding van het gestelde in de brief van Mr. Witte aan de heer Maurer d.d. 3 September 1954, FA/1013, inmiddels de advocaat van de New Jersey Industries te Amsterdam, Mr R. Korthals Altes, zich met het Nederlands Beheersinstituut in verbinding heeft gesteld ter verkrijging van nadere gegevens.

Mocht in de loop van Uw contact met de heer Merchant blijken, dat de ontstaan vertraging in de hervatting der onderhandelingen inderdaad in hoofdzaak voortvloeit uit de moeilijkheden met betrekking tot de claim van de New Jersey Industries, dan zou door U, overeenkomstig de op 27 September j.l. genomen beslissing, aan de Heer Merchant mededeling kunnen worden gedaan van de Nederlandse bereidheid om aan de Amerikaanse verlangens nog verder tegemoet te komen, in die zin, dat er geen bezwaar tegen zal worden gemaakt, indien de Amerikaanse onderhandelaars tijdens de besprekingen over de Amerikaanse RM-claims zouden uitgaan van 65% van de geclaimde waarde i.p.v. 65% van de aanwezige waarde, zoals besproken met de heren Metzger en Maurer in Juni van dit jaar. Te Uwer orientatie moge ik nog opmerken, dat deze tegemoetkoming erop neerkomt, dat tijdens de besprekingen over de Amerikaanse RM-claims een verschil zal moeten worden overbrugd tussen ca. f.3.200.000,- (d.i. 50% van het aanwezige bedrag) en ca. f. 9.000.000,-(d.i. 65% van het geclaimde bedrag) i.p.v. een verschil tussen ca. f. 3.200.000,-(d.i. 50% van het aanwezige bedrag) en f. 4.300.000,-(d.i. 65% van het aanwezige bedrag).

Bij het doen van deze tegemoetkoming ware er door U de nadruk op te leggen, dat deze niet inhoudt, dat Nederland zijn juridische standpunt t.o.v. deze RM-investeringen prijs geeft, terwijl er voorts door U op ware te wijzen, dat Nederland niet tot enige honorering van de Amerikaanse RM-claims bereid is, tenzij overeenstemming wordt bereikt omtrent de afwikkeling van de gevallen, bestreken door de Delen I t/m III van de Annex der Brusselse Overeenkomst.

Mocht het State Department ondanks deze tegemoetkende houding nog niet bereid zijn een datum voor de hervatting der onderhandelingen vast te stellen, dan zal ik het op prijs stellen, indien U wilt informeren, aan welke voorwaarden naar Amerikaanse opvatting dan nog daarenboven door Nederland moet worden voldaan en mij terzake wilt adviseren. Mochten de verdere Amerikaanse verlangens slechts van zeer ondergeschikt belang zijn, dan bestaat er mijnerzijds geen bezwaar tegen, indien U zich daarmede accoord verklaart.

Afschrift van het verslag van de met U gevoerde besprekings en van deze brief doe ik toekomen aan mijn ambtgenoot van Buitenlandse Zaken,

DE MINISTER VAN FINANCIEN,

(get.) Van de Kieft

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Notitie

29 September 1954.

inzake intercustodiale conflicten.

Op Maandag 27 September 1954 werd een besprekking gevoerd tussen Z.E. Minister J. van de Kieft, Z.E. Dr. J. H. van Roijen, Jr. Mr. E. van Lennep, Dr. L. R. W. Soutendijk en Mr. P. C. Witte over de verdere behandeling van de kwestie van de Nederlandse-Amerikaanse intercustodiale conflicten en aanverwante onderwerpen.

Door Minister Van de Kieft werd de besprekking aangevangen met de vraag, of Dr. Van Roijen bereid zou zijn, het voorzitterschap van de Nederlandse delegatie bij de terzake te voeren Nederlandse-Amerikaanse besprekkingen op zich te nemen. Naar aanleiding van dit verzoek werd even ingegaan op de aard van de te voeren besprekkingen, waarbij werd vastgesteld, dat deze voor een groot deel betrekking zouden hebben op juridisch-technische problemen, doch dat er daarnaast en daarboven ook enkele beslissingen van een meer algemene financieel-politieke aard zouden moeten worden genomen. Het werd daarbij gewenst geacht, dat bij de besprekkingen, welke tot deze laatstbedoelde categorie van beslissingen zouden moeten leiden, aan Amerikaanse zijde functionarissen van hoog niveau zouden worden ingeschakeld. Om dit doel te bereiken, zou het inderdaad nuttig zijn, wanneer Dr. Van Roijen als voorzitter van de Nederlandse delegatie zou optreden, waarbij Dr. Van Roijen dan uiteraard alleen deze besprekkingen van algemeen financieel-politieke aard zou behoeven te leiden. Met een dergelijke opzet wilde Dr. Van Roijen zich gaarne verenigen.

Vervolgens werd ingegaan op het feit, dat men van Amerikaanse zijde de besprekkingen, welke aanvankelijk voor de tweede helft van October waren voorgenomen, thans wederom wilde uitstellen. De reden hiervan houdt verband met de kwestie van de zogenaamde Reichsmark-purchases. Het State Department claimt 65 % van tijdens de bezetting door Amerikanen met behulp van Reichsmarken in Nederland verworven vermogensbestanddelen. Nederland biedt daartegenover aan 50 % van dat gedeelte van deze vermogensbestanddelen, dat nog bij het Beheersinstituut aanwezig is. Het verschil tussen de 65 % en de 50 % is daarbij van minder belang dan het verschil tussen het indertijd verworvene en het thans bij het Beheersinstituut aanwezige. Dit laatste verschil wordt o.a. veroorzaakt door het feit, dat sommige van de betrokken vermogensbestanddelen, voordat zij met behulp van Reichsmarken door de tegenwoordige Amerikaanse claimants werden gekocht, rechtstreeks van de oorspronkelijke eigenaars in Nederland waren geruild en in verbond daarmee sedertdien in de vorm van rechtsherstel aan deze oorspronkelijke eigenaars zijn teruggegeven. Hoewel de Nederlandse weigering, om deze vermogensbestanddelen in hot aenbod van 50 % op te nemen, juridisch volkomen verantwoord moet worden geacht, neemt het State Department hier geen gecogen mee. Het gevolg is, dat dit Departement geen toestemming geeft tot het openen van de voorgenomen besprekkingen.

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Hoewel overtuigd van de juistheid van de evenbedoelde juridische opvatting, stellen Minister Van de Kieft en Jhr. Van Lennep zich op het standpunt, dat, aangezien het gehele complex van intercustodiale en aanverwante problemen nodig tot een oplossing moet worden gebracht, in dit opzicht een concessie moet worden gedaan. De vraag rijst echter, in welke mate en op welke wijze een concessie kan worden gedaan. Voor wat de hoogte van de te maken concessie betreft, wordt overwogen, de daarvoor in aanmerking komende Amerikanen uit te nodigen, in Nederland besprekingen te voeren. Na enig overleg wordt echter tot de conclusie gekomen, dat dit waarschijnlijk niet bespoedigend zal werken en dan ook niet aan het doel zal beantwoorden. Ook is het de vraag, of de Amerikanen in dat geval niet nog moeilijker zullen zijn, omdat zij dan met een succes willen thuiskomen. Er wordt daarom besloten, dit punt hier in de Varenigde Staten te behandelen. Uiteraard zal daarbij niet aanstands worden aangeboden, de betrokken vermogensbestanddelen volledig onder het Nederlandse aanbod van 50 % te brengen, doch zal eerst worden getracht, de Amerikanen er toe te brengen, een tussenoplossing te accepteren. Een dergelijke tussenoplossing zou kunnen worden gevonden op de basis van de in Juni door Mr. Rinnooy Kan ontwikkelde suggestie, om eerst, zowel voor de Reichsmark-cases als voor de overige Part IV- en voor de Part I, II en III-cases, minimum- en maximumposities vast te stellen en daarna over een compromis tussen deze posities te onderhandelen. Binnen het kader van deze opzet zouden wij ons bereid kunnen verklaren, met betrekking tot de Reichsmark-cases de Amerikaanse claim van 65 % over alle met behulp van Reichsmarken verworven vermogensbestanddelen, dus inclusief de in eerste instantie direct geroofde waarden, als maximum positie te accepteren, doch van de andere kant het Nederlandse aanbod van 50 % over het nog bij het Beheersinstituut aanwezige als minimumpositie te handhaven. Indien de Amerikanen deze tussenoplossing niet zouden accepteren, is de Minister echter van mening, dat wij, om tot een einde te komen, zullen moeten toegeven.

Met betrekking tot de wijze, waarop een concessie als bovenbedoeld zou kunnen worden gedaan, rijst in de eerste plaats de moeilijkheid, dat moet worden voorkomen, dat straks uit de te bereiken overeenkomst zou kunnen worden afgeleid, dat Nederland zijn standpunt principieel heeft prijsgegeven. Een tweede moeilijkheid is vervolgens deze, hoe de voor het doen van een dergelijke concessie vereiste fondsen comptabel kunnen worden verantwoord nu het hier om waarden gaat, welke niet meer bij het Beheersinstituut aanwezig zijn. Een derde vraag is, hoe een dergelijke concessie op zodanige wijze kan worden gedaan, dat daardoor oock indendaad kan worden bereikt, dat thans een regeling voor het gehele complex van problemen kan worden verkregen. Bij het zoeken naar een oplossing voor deze verschillende problemen wordt wederom de in Juni door de Heer Rinnooy Kan voorgestelde opzet als het meest geschikte uitgangspunt gekozen. Op deze basis zou de volgende constructie kunnen worden opgebouwd. Bij het voeren van besprekingen over de Reichsmark-cases dient van te voren te worden vastgesteld, dat een eventuele oplossing voor deze gevallen bedoeld is

om in een het gehele complex van problemen omvattende regeling te worden geïncorporeerd, en dat deze dus ook niet eerder effectief zal worden. Indien vervolgens ook een oplossing voor de andere Part IV-cases en voor de Part I, II en III-cases wordt bereikt, moet deze, gezamen met de voor de Reichsmark-gevallen bereikte oplossing, in een enkele overeenkomst worden vastgelegd, waarin staat dat de Amerikanen die en die vermogensbestanddelen zullen vrijgeven en dat Nederland dat bedrag zal betalen, zonder dat daarbij wordt vastgesteld, op welke wijze dit bedrag in Amerika wordt verdeeld of in Nederland wordt verantwoord. In feite kan dit bedrag daarna in Amerika mede voor de betrokken Reichsmark-gevallen worden gebruikt, terwijl het toch in Nederland als prijs voor de vrijgave van de Amerikaanse vermogensbestanddelen onder Part I, II en III kan worden verantwoord.

Vervolgens worden de kansen besproken, of de Amerikanen aan een dergelijke opzet zullen willen meewerken. Zoals in het verleden is gebleken, zijn zij niet bereid, aan hun kant bedragen, welke hun binnen het kader van Part I, II en III worden toegewezen, naar Part IV te switchen. In de hierboven uiteengezette opzet is dit echter ook niet nodig, aangezien in eerste instantie afzonderlijke regelingen voor deze categorieën zullen worden getroffen, waaruit blijkt, hoeveel zij voor elk daarvan verkrijgen. Het enige wat wij verlangen is, dat deze bedragen vervolgens bij elkaar worden opgeteld en als een enkel bedrag in de te treffen allesomvattende overeenkomst worden vermeld, en dat daarbij niet in de overeenkomst wordt vastgelegd, hoe dit bedrag is opgebouwd en hoe het dient te worden verdeeld. Naar verwacht mag worden, zullen hiertegen geen overwegende bezwaren bestaan. Besloten wordt daarom, in deze richting te gaan werken.

Tenslotte wordt de feitelijke procedure besproken. Hierbij wordt besloten, dat het best eerst door de Ambassade - i.e. Dr. Soutendijk en Mr. Witte en indien nodig ook door Dr. Van Koijen zelf - zal worden gepolst, of de Amerikanen inderdaad bereid zijn langs de hierboven uiteengezette lijnen te werken. Van het resultaat van dit onderzoek zal afhangen, op welke wijze verder zal worden gehandeld. Alvorens met dit onderzoek te beginnen, zal deze opzet echter eerst door de minister en Jhr. Van Lenne� met de daarbij betrokken functionarissen in den Haag worden besproken, voor welk doel deze notitie is samengesteld. Zoals hierbij door de minister wordt verklaard, is het niet de bedoeling van deze in den Haag te voeren besprekking, om nogmaals de wenselijkheid van een concessie als hierboven met betrekking tot de Reichsmark-gevallen bedoeld te overwegen, doch meer, om de met betrekking tot deze concessie besproken verdere opzet te toetsen.

n.a.w.
Rimayka

Mr. P. G. Witte.
Adjunct Financieel Attaché

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AMBASDADE VAN HET KONINKRIJK DER NEDERLANDEN

WASHINGTON 9, D. C.

W.H.
N.A.
RECEIVED EA-991/5N L
AIR MAIL

21 Februari 1950

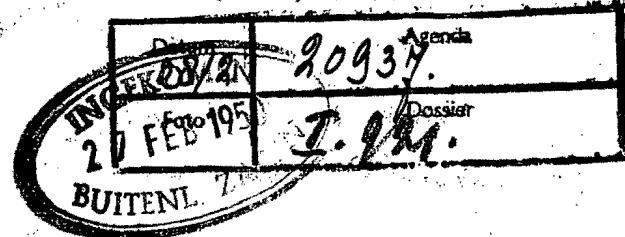
46 Wall Street, New York 5,

Vermogensbestanddele n van vermiste personen, 1950

Mr. B. van Loen,

Nederlandsche Emba ssy

Washington 5, D. C.



Met verwijzing laatstelijk naar mijn schrijven
aan Mr. van Loen:

van 9 dezer, EA-757/398, heb ik de eer Uwer Excel-
lentie hierbij in vijfvoud aan te bieden de tekst
copies of the amendment of 1949 of the Surrogate's Court
Act.

gewag maakt, benevens vijf copieën van een brief

The footnote to the section, which appears on the
d.d. 17 dezer van de Heer J.L. Broderick van het
advocatenkantoor Sullivan & Cromwell, waarin de bron
Practice (1949 Supplement).

vermeld wordt waaraan de aan de voet van evenbe-
zith kild regarda.

doelde tekst geplaatste noot is ontleend.

Very truly yours,
De Ambassadeur,

Mr. Joseph voor deze Broderick

J. Broderick

(Enclosure)

Bijlagen: 2 in vijfvoud

Zijner Excellentie
de Heer Minister van Buitengelandse Zaken
's-Gravenhage.

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NEW YORK STATE ATTORNEY GENERAL

SULLIVAN & CROMWELL ATTORNEYS

Dear Sir: If it appears that a grant of probate
was based on the disappearance of defendant, **48 Wall Street, New York 5,**
as to afford reasonable ground to believe he is dead, of the person
known as **Mrs. B. van Loon**, all necessary letters are sought, or copies shall
also be made at the **Netherlands Embassy** or absent person and shall be served
upon him by **Washington 2, Dec. Commissioner** provided in section five-eight
of this act. Such citation shall also be served upon the public
adversary. Dear Mr. van Loon, if, at there be none, upon the County
probate. Pursuant to your request I enclose herewith six
copies of the amendment to § 162 of the Surrogate's Court
Act.

The footnote to the section, which appears on the
enclosure, is taken from Cahill-Parsons New York Civil
Practice (1949 Supplement).

With kind regards. Issue law 17 thereafter will
person alleged to be dead shall very truly yours,
the property given in the hands of **w.s. Joseph L. Broderick**
reserves for my unpaid administration charges and costs only
the further right to compel payment of his debts in his insolvent
(Enclosures)

For purposes of this section, the word "debt" means any money or other
assets from which defendant may be liable for such debts or expenses
the value thereof. These generally representatively shall not be liable
for amounts of which defendant is relieved by his in good faith and
such persons charged to be paid any debt upon his behalf, either by

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NEW YORK STATE SURROGATE'S COURT ACT

§ 162. Petition; citation.

2. If it appears that the grant of foreign administration was based on the disappearance or absence, under such circumstances as to afford reasonable ground to believe he is dead, of the person upon whose property ancillary letters are sought, citation shall also issue to such disappeared or absent person and shall be served upon him by publication in the manner provided in section fifty-eight of this act. Such citation shall also be served upon the public administrator of the county, or, if there be none, upon the county treasurer. Upon the return of the citation if it appears to the satisfaction of the surrogate, from such foreign grant of administration or from such other proof as the surrogate may require, that such person be dead, the surrogate shall make a decree determining such fact and granting ancillary administration upon the estate as prescribed in this article.

If ancillary letters shall issue and if thereafter the person alleged to be dead shall return he shall on demand receive the property then in the hands of the ancillary representative after reserve for any unpaid administration charges and shall have only the further rights to compel an accounting on the part of his ancillary representative and to enforce the decree made thereon and to recover from any person who shall have received distribution of moneys or other assets from such ancillary representative such moneys or assets or the value thereof. Such ancillary representative shall not be liable for moneys or assets disbursed or delivered by him in good faith and such person alleged to be dead may not, upon his return, review any

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matter embraced in any account of such ancillary representative which may have been finally settled by decree duly entered prior to the date when such ancillary representative shall have had actual notice that he is still living.

The 1949 amendment (Ch 489, Sept. 1) inserted "l." at figure 1 and added subdivision E.

(The 1949 amendment was recommended by the Executive Committee of the Surrogates' Association of the State of New York. Its purpose is to remove all doubt respecting jurisdiction to grant ancillary administration on the estates of non-resident aliens where direct proof of death is not available; and to afford protection to the ancillary fiduciary and to those who deal with him on the faith of his letters. The proposed amendment requires citation of the person alleged to be dead and makes explicit provision for enforcement of his rights if he shall return to claim his property. The text of the amendment makes explicit what is implicit in the comparable text of Section 119 of the Surrogate's Court Act which relates to proceedings for original letters of administration (See Combined Reports of the Decedent Estate Commission, p. 4057.)

327628

MEMORANDUM

Van: DWH/NA

Aan: JURA

4 juni 1964

OND.: Heirless Assets

In bijgaande brieven van Financiën wordt ons advies gevraagd of dient te worden berust in het zonder meer terzijde stellen door de Regering van de VS van de destijds gemaakte Nederlands-Amerikaanse afspraken in de zaak van de "heirless assets". Om een aantal redenen neigt dit Bureau ertoe de onderhavige kwestie inderdaad te laten rusten.

De ervaring van de afgelopen jaren heeft namelijk geleerd, dat in kwesties, verband houdende met de Amerikaanse "Trading with the Enemy Act" het uiterst moeilijk is met de autoriteiten van de VS tot definitieve regelingen te komen. Wanneer er echter direct belanghebbenden zijn, of wanneer het om grote bedragen gaat, aan de teruggave waarvan een additioneel fiscaal voordeel voor het Rijk verbonden is, dan is er uiteraard alle aanleiding om te trachten de Amerikanen er toe te brengen de vermogensbestanddelen in kwestie terug te geven. In het onderhavige geval echter kan nauwelijks van een direct belanghebbende worden gesproken gezien het feit, dat van Nederlands-Joodse zijde nooit enige aandrang in deze op de Regering is uitgeoefend. Voorts acht Financiën het materiëel belang van de betreffende aangelegenheid gering.

In deze zaak speelt echter ook een principiële kwestie een rol. Financiën meent, dat de VS juridisch gehouden zijn ingevolge het "Memorandum of Understanding" van 1951, een speciale regeling inzake de "heirless assets" te treffen. Indien dit juist is - de VS blijken dit te betwisten, nu er geen algemene regeling is tot stand gekomen - , kan het berusten van de Nederlandse regering dan als een gevaarlijk precedent voor eventuele latere gevallen worden beschouwd? Gaarne Uw advies op dit punt, dat van belang is voor de definitieve vaststelling van ons standpunt terzake.

P.S.R. 6

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MINISTERIE VAN FINANCIËN

GENERALE THESAURIE.

DIRECTIE: BEWINDVOERING.

~~VERBLIJF~~~~BUREAU~~

Aan de heer Minister van
Buitenlandse Zaken,
's-GRAVENHAGE.

In Uw antwoord onderwerp, datum en kenmerk van
deze brief vermelden.

UW KENMERK:

UW BRIEF VAN:

ONS KENMERK:

A4/4077

'S-GRAVENHAGE,
14 april 1964.

ONDERWERP:

irless Assets.

Bij brief van 22 augustus 1963, nr. A3/9175, heb ik u de vraag voorgelegd of het aanbeveling zou verdienen bij de Amerikaanse regering stappen te doen inzake de aangelegenheid van de z.g. "Heirless Assets". Het ging hier over het principiële punt of er in diende te worden berust, dat de in de Nederlands-Amerikaanse overeenkomsten neergelegde toezeggingen van de Verenigde Staten door de Amerikaanse regering zonder meer terzijde worden gelegd.

Ik mocht tot nu toe nog niet van u vernemen, welk standpunt uw departement wenselijk acht in deze in te nemen. Mede in verband met het feit, dat de Financiëel Attaché te Washington mijn aandacht op deze aangelegenheid heeft gevestigd, zal ik het zeer op prijs stellen, indien u mij uw reactie op mijn brief van 22 augustus 1963 zou kunnen doen toekomen.

DE MINISTER VAN FINANCIËN,
Voor de Minister,
HET HOOFD VAN DE DIRECTIE
BEWINDVOERING,

15 APR. 1964

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313.23 VS (12863/3)

327630

door de Finance (a) voorstel dat 29/4.64 m
DWH/DN

MINISTERIE VAN FINANCIËN

95

GENERALE THESAURIE.

DIRECTIE: BEWINDVOERING.

VERBLIJF:

OUTREUX

Aan de Heer Minister van
Buitenlandse Zaken.
's-GRAVENHAGE.

In Uw antwoord onderwerp, datum en kenmerk van
deze brief vermelden.

UW KENMERK:

UW BRIEF VAN:

ONS KENMERK:

'S-GRAVENHAGE.

ONDERWERP:

A3/9175

22 augustus 1963.

Re. less Assets.

Hierbij moge ik uw aandacht vragen voor de positie van vermogensbestanddelen in de V.S., welke hebben toebehoord aan Nederlanders, die tijdens de oorlog zijn omgekomen zonder bekende erfgenamen na te laten. Het betreft hier, voorzover bekend, uitsluitend Joods bezit.

Ingevolge de Amerikaanse Trading with the Enemy Act zou onbeërfde Joods vermogen in de V.S. dienen te worden afgestaan aan de Jewish Restitution Successor Organisation (JRSO). In Nederland is in 1949 door een vertegenwoordiger van het World Jewish Congress, de heer Isenbergh, contact opgenomen met de Nederlandse regering teneinde te bepleiten, dat in Nederland een soortgelijke regeling voor vermogensbestanddelen van niet-Nederlandse origine zou worden getroffen en dat dit onbeërfde Joodse vermogen in Nederland aan de Stichting Joods Maatschappelijk Werk zou worden afgestaan.

26 AUG. 1963

Afschrift van een briefwisseling terzake tussen Dr. Drees en de heer Isenbergh d.d. 4 juni/30 juli 1949 voeg ik te uwer kennismeming hierbij. Het contact met de Joodse organisaties heeft er mede toe geleid, dat diverse vermogensbestanddelen waarvan vaststaat, dat zij Joods bezit zijn geweest, doch waarvoor geen rechthebbenden konden worden opgespoord, ter beschikking zijn gesteld van de Stichting Joods Maatschappelijk Werk. Te uwer orientatie voeg ik als voorbeelden hierbij een afschrift van het Koninklijk Besluit van 30 oktober 1959 nr. 29 en een afschrift van de brief van mijn ambtsvoorganger aan de Stichting Joods Maatschappelijk Werk d.d. 26 maart 1962, nr. A2/2518.

Met de Amerikaanse autoriteiten heeft meermalen overleg plaatsgevonden over de positie van het Nederlands vermogen in de V.S., waarvoor na de oorlog geen rechthebbenden konden worden opgespoord. Men was het er over eens, dat voor deze aangelegenheid een speciale regeling zou moeten worden getroffen. Naar een zodanige regeling wordt verwezen in punt 11 van het Nederlands-Amerikaanse "Memorandum of Understanding" met

327631

- betrekking -

betrekking tot aanspraken van de Nederlandse regering op geroofde effecten d.d. 19 januari 1951 (Trb. 1951, 41) en in het m.m. gelijkluidende punt 7 van de briefwisseling tussen de Amerikaanse Attorney General en de Nederlandse zaakgelastigde te Washington d.d. 20 en 29 augustus 1951, welke briefwisseling deel uitmaakt van het Nederlands-Amerikaanse akkoord omtrent geblokkeerd Amerikaans aandelenbezit van Nederlandse Administratie-kantoren d.d. 28/29 augustus 1951.

De tekst van punt 11 van bovenvermeld "Memorandum of Understanding" luidt als volgt: "The question of the ultimate disposition of domestic scheduled securities which fall in the category of "heirless assets" shall be subject to agreement arrived at between the Government of the Netherlands and the Government of the United States as to other property in the category of "heirless assets"."

In de loop van de besprekingen, welke met de Amerikaanse regering over deze aangelegenheid zijn gevoerd, werd het bereiken van overeenstemming belemmerd door het feit, dat naar de mening van de Amerikaanse autoriteiten de door Nederland verstrekte opgave van tot Nederlands vermogen behorende "heirless assets" in de V.S. veel te klein zou zijn. Dit heeft zelfs geleid tot een rapport, opgesteld door Notaris Spier te Amsterdam t.b.v. de Commissie Rechtsherstel Buitenlandse Effecten d.d. 24 februari 1954, waarin wordt uiteengezet, waarom de waarde der Nederlands-Joodse vermogensbestanddelen, waarvoor geen erfgenamen konden worden opgespoord betrekkelijk gering is.

Een Engelse vertaling van dit rapport gaat te uwen behoeve hierbij.

Dat hiermede desondanks weinig werd bereikt, moge blijken uit nevensgaand verslag van een op 13 mei 1955 op het Amerikaanse Office of Alien Property (O.A.P.) gevoerde besprekking, waarbij van Amerikaanse zijde voornamelijk het woord werd gevoerd door de heer Ely Maurer van het State Department.

De aan Amerikaanse zijde heersende achterdocht, dat de Nederlandse regering trachtte de uit Joods vermogen stammende "heirless assets" in de Nederlandse Schatkist te doen vloeien, enerzijds, en het feit, dat het hier slechts om een betrekkelijk geringe waarde aan vermogensbestanddelen ging, waardoor het afsluiten van een overeenkomst tussen beide regeringen met alle daaraan verbonden formaliteiten wel een wat zware procedure leek, anderzijds, hebben er toe geleid, dat dezerzijds is nagegaan, of wellicht tussen Joodse organisaties in Nederland en in de V.S. een regeling mogelijk zou zijn.

Gezien het feit, dat de "heirless assets" in de V.S. zouden toevalen aan de JRSO, leek het mogelijk, dat de JRSO zich bereid zou verklaren om de aan haar toevallende vermogensbestanddelen, waarvan vaststond, dat zij aan Nederlandse Joden hadden toebehoord vrijwillig af te staan aan de Stichting Joods Maatschappelijk Werk. Hier toe is opnieuw contact opgenomen met Notaris Spier te Amsterdam.

in zijn capaciteit van vertegenwoordiger van het World Jewish Congress in Nederland. De heer Spier heeft hieromtrent overleg gepleegd met de Heer Nehemiah Robinson van het World Jewish Congress te New-York, die zich op zijn beurt in verbinding heeft gesteld met het State Department.

Afschrift van een brief van de heer Robinson aan Mr. Spier d.d. 29 september 1960 voeg ik hierbij. Hoewel daarna via Notaris Spier nog nadere gegevens werden verstrekt, werd geruime tijd niets over deze kwestie vernomen.

Begin 1962 ontving de Financieel Attaché bij Harer Majesteits Ambassade te Washington het verzoek van het O.A.P. om een aantal door Nederland ingediende claims op "heirless assets" in te trekken.

Dit verzoek heeft geleid tot de brief van mijn ambtsvoorganger aan de heer van der Ven d.d. 27 april 1962, nr. A2/3358, van welke brief, met bijbehorende bijlagen, ik u ingesloten een afschrift toeziend, evenals van een aanvullende brief aan de heer van der Ven, met bijlage, d.d. 25 juli 1962, nr. A2/7639.

Voorts doe ik u toekennen afschriften van brieven, welke de heer van der Ven op 18 en 25 mei 1962 aan het O.A.P. heeft geschreven; in laatstbedoelde brief wijst hij in het bijzonder op het gestelde sub 11 van bovenvermeld "Memorandum of Understanding" van 19 januari 1951.

Op 22 oktober 1962 kwam in de V.S. een wet tot stand ter wijziging van de Trading with the enemy Act, waarin een bepaling was opgenomen, die de President machtigde, ter afdoening van de aanspraken der z.g. "successor-organizations" aan deze organisaties een bedrag te betalen van \$ 500.000. De betrokken organisaties zouden slechts betaling mogen aanvaarden, indien zij de verzekering gaven, dat de uitkering zou worden gebruikt t.b.v. personen in de V.S. In verband met deze wet heeft mijn ambtsvoorganger bij een brief van 27 november 1962 nr. A2/14469 aan de Financieel Attaché te Washington verzocht zich terzake met de bevoegde Amerikaanse instanties in verbinding te stellen, teneinde te verifiëren, of door de inwerkingtreding van de betrokken wet de weg naar een ondershandse regeling tussen de Nederlandse en Amerikaanse successor-organization was afgesneden en om voorts, indien dit inderdaad het geval zou blijken te zijn, te overleggen op welke wijze thans een regeling zou kunnen worden getroffen voor de Nederlandse belangen terzake.

Een afschrift van de bedoelde brief aan de heer van der Ven met bijlage, voeg ik hierbij, evenals afschriften van een brief van de heer van der Ven d.d. 8 mei 1963, FA/256/111, en van dezerzijds antwoord d.d. 31 mei 1963, nr. A3/6187.

Dezer dagen werd van het Hoofd van de Economische Afdeling van Harer Majesteits Ambassade te Washington een afschrift ontvangen van een brief van de heer Ely Maurer van het State Department d.d. 11 juli 1963 (afschrift bijgevoegd), waarin deze verklaarde, dat de V.S. wegens de inmiddels tot stand gekomen interne wetgeving geen overeenkomst met Nederland zou kunnen afsluiten.

Ik moge aantekenen, dat deze wetgeving dateert van 22 oktober 1962, terwijl de toezegging, om terzake met Nederland een regeling over "heirless assets" te sluiten, reeds dateert van 19 januari 1951.

Men zou kunnen aarzelen, of de woorden "subject to agreement arrived at", gebruikt in de beide overeenkomsten van 1951, er op zouden kunnen duiden, dat, nu een zodanig agreement niet tot stand was gekomen vóór de inwerkingtreding van deze beiden overeenkomsten, de Amerikaanse regering terzake geen verplichtingen meer zou hebben. Dit zou dan betekenen, dat punt 11 een volkomen loze bepaling zou inhouden. Er lijkt mij echter geen twijfel mogelijk, dat de betrokken clausule niet anders betekent dan "subject to agreement to be arrived at". Dit is ook de mening van Prof. Henry P. de Vries te New York, die tijdens een recent bezoek aan Nederland over deze zaak kon worden geraadpleegd. Daar komt bij, dat het in 1950 duidelijk de bedoeling van de onderhandelaars - ook van de Amerikaanse - is geweest, dat de betrokken activa zouden toevallen aan de Nederlandse "successor-organization"; te uwer oriëntatie voeg ik een aantal stukken uit die periode hierbij.

De heer Maurer merkt nog op, dat punt 11 van het Memorandum of Understanding van 19 januari 1951 de V.S. alleen verbindt om de daarin bedoelde effecten op te nemen in een algemene overeenkomst inzake "heirless assets" en dat een zodanige overeenkomst niet tot stand is gekomen.

Ik moge er op wijzen, dat in de lijsten van de heirless assets, welke gevoegd waren bij de brief aan de heer van der Ven d.d. 27 april 1962 - en welke reeds eerder via Notaris Spier en de heer Robinson aan het State Department waren overgelegd - naast effecten ook banksaldi voorkomen, waarvoor een regeling moest worden getroffen.

Het materieel belang van de onderhavige aangelegenheid is betrekkelijk gering (ca \$ 40.000), zodat uit dezen hoofde geen dringende reden bestaat om over deze aangelegenheid nadere stappen bij het State Department te ondernemen. Ook van Nederlands-Joodse zijde is te dezer zake nooit aandrang op de Nederlandse regering uitgeoefend.

Ik meen echter goed te doen deze aangelegenheid aan u voor te leggen wegens de principiële kwestie, welke hierbij een rol speelt. Ongetijfeld zal ook u het ongewenst achten, dat in Nederlands-Amerikaanse overeenkomsten neergelegde toezeggingen van de V.S. door de Amerikaanse regering zonder meer terzijde worden gelegd. Ik moge het aan uw beter oordeel overlaten of u het uit dezen hoofde gewenst acht, terzake alsnog een demarche bij het State Department te doen ondernemen. Voor het geval u terzake het advies van Harer Majesteits Ambassadeur te Washington mocht willen vragen, moge ik u mededelen, dat ik afschrift dezes met bijlagen rechtstreeks doe toekomen aan het Hoofd van de Economische Afdeling van de Nederlandse Ambassade te Washington.

327634

DE MINISTER VAN FINANCIEN,
Voor de Minister,
DE PLV. SECRETARIS-GENERAAL,

J.J. van der Ven

AASSADE VAN HET KONINKRIJK DER NEDERLANDEN

WASHINGTON 9, D. C.

De Uitvoer
420.10

FA/14003-1062GS/3495

138133

30 september 1957

ONDERWERP : Uitlevering Rebholz-effekten.

313.23 vs

Ten vervolge op mijn berichtgeving langs andere weg van 25 februari jl. heb ik de eer Uwer Excellentie te berichten dat er, na ambtelijke besprekingen door functionarissen van het Beheersinstituut en medewerkers van deze Ambassade met ambtenaren van het Office of Alien Property, een oplossing is gevonden volgens welke de zgn. Rebholz-effekten aan Nederland kunnen worden uitgeleverd.

Zoals U bekend is heeft de Amerikaanse Administratie jarenlang deze teruggave geweigerd, aangezien volgens haar "The Trading With The Enemy Act" zich ertegen verzette, omdat er geen sprake zou zijn van "looting" en omdat, ook al mocht zulks wel worden aangenomen (quod non), deze wet de teruggave slechts toelaat aan de eigenaren op 15 mei 1940, die evenwel in casu bij de overdracht van hun effekten aan Rebholz reeds de waarde hebben ontvangen.

De oplossing van de hieruit voortvloeiende problemen is gevonden in een erkenning door de Verenigde Staten van het Besluit A1 voor deze gevallen, waartegenover Nederland zal moeten verklaren dat de effekten c.q. de waarden niet ten goede zullen komen aan de vroegere eigenaren, doch aan de Nederlandse Staat.

De heer Schor van het Office of Alien Property heeft inmiddels reeds de goedkeuring verworven voor deze procedure van de adviesinstanties van het Department of Justice en het State Department en overhandigde aan een mijner medewerkers een concept nota van het State Department aan mij en vroeg goedkeuring van een concept antwoord-nota die door mij daarop aan de Secretary of State zal worden toegezonden. U gelieve beide concepten als bijlagen deses aan te treffen.
./.

Aan Zijne Excellentie de Heer Minister

van Buitenlandse Zaken
te

's-GRAVENHAGE

ANNEKE GUYK

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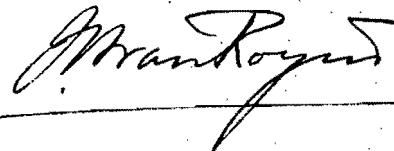
De heer Schor drong hierbij aan op zeer veel spoed. Dit houdt vermoedelijk verband met het feit dat de uitwerking der overeenkomst nog enige maanden zal vergen, terwijl immiddels het State Department reeds bezig is met de redactie van de ontwerp-wet welke de teruggave van het in beslag genomen vijandelijk vermogen aan Duitsland en Japan mogelijk moet maken. Het Office of Alien Property, dat evenals het Justice en het Treasury Department niet overmatig enthousiast is over de nieuwe teruggave-politiek, wil kennelijk de onderhavige zaak reeds geheel hebben afgedaan voor het ontwerp in het Congres wordt behandeld.

In verband met het feit dat men op het Office of Alien Property geen tijd meer wil verliezen en aangezien de inhoud der te wisselen nota's geheel in overeenstemming is met de doelstellingen welke zijn kenbaar gemaakt door het Ministerie van Financiën, heb ik met instemming van de Thesaurier-Generaal, Jhr.Mr.E. van Lennep, en de Directeur Bewindvoering, Mr. A. Rinnoo Kan, die momenteel beiden in de Verenigde Staten vertoeven, aan de heer Schor doen weten, dat ik mij met beide concept-nota's kan verenigen, waarmede ik - naar ik mag aannemen - geheel in Uw geest heb gehandeld. De Amerikaanse nota kan thans spoedig worden verwacht.

Volledigheidshalve moge ik U nog mededelen dat de Rebholz-effekten een waarde van omstreeks \$ 172.000,- vertegenwoordigen.

Spoedshalve is een afschrift van dit schrijven aangeboden aan Uw Ambtgenoot van Financiën.

De Ambassadeur,



The Secretary of State presents his compliments to His Excellency the Ambassador of the Netherlands and has the honor to transmit a copy of a self-explanatory letter from the Office of Alien Property, Department of Justice dated and a copy of a self-explanatory reply from the Department of State dated concerning the cases of vested securities involving "Rebholz Banking" looting.

The Department would appreciate a communication from the Netherlands Ambassador that the Netherlands Government agrees that the note of the Ambassador of October 17, 1955 should be considered as covering the cases of vested securities involving "Rebholz Banking" looting.

Enclosures:

1. From the Office of Alien Property
2. From the Department of State,

Department of State,
Washington,

327637

The Ambassador of the Netherlands presents his compliments to the Secretary of State and has the honor to refer to the Secretary's note of concerning the cases of vested securities involving "Rebholz Banking" looting.

The Netherlands Government agrees that the note of the Ambassador of October 17, 1955 should be considered as covering the cases of vested securities involving "Rebholz Banking" looting. The Netherlands Government wishes to advise that the return of these securities will inure to the benefit of the Netherlands Government rather than to the benefit of the former owners.

Washington D.C.

327638

Copy

The Ambassador of the Netherlands presents his compliments to the Secretary of State and has the honor to refer to the Secretary's note of October 17, 1955 concerning the recognition of Netherlands Decree A-1 of May 24, 1940 with respect to certain securities vested by the Office of Alien Property, Department of Justice, falling under the United States-Netherlands Memorandum of Understanding of January 19, 1951 Regarding Claims by the Government of the Netherlands to Looted Securities.

The Netherlands Government hereby waives its immunity in so far as regards its trustee capacity under the Netherlands Decree A-1 in suits brought by a claimant against the beneficial owner and the Netherlands Government.

The Netherlands Government assures that it will return any securities released which the Netherlands Government determines after further investigation to be enemy owned under United States Law.

Washington D.C.

October 17, 1955

327639

September 14 1955

Mr. C. Burke Elbrick
Deputy Assistant Secretary for European Affairs,
Department of State
Washington, D.C.

Dear Sir :

Reference is made to recent discussions between representatives of the Department of State and the Office of Alien Property on the one hand, and representatives of the Netherlands Government, on the other hand, with respect to the implementation of the Memorandum of Understanding of January 19, 1951 between the United States of America and the Netherlands Regarding Claims by the Government of the Netherlands to Looted Securities. In the course of these discussions the question has been raised by the Netherlands representatives respecting the recognition of Netherlands Decree A-1 of May 24, 1940, as amended by Netherlands Decree C-34 of May 7, 1942. It will be recalled that the State Department received official translations of these decrees by letters of June 1, 1940 and July 14, 1942 from the Netherlands Ambassador to the Secretary of State. Under the Netherlands Decree A-1, as amended, the Netherlands Government made provision for the taking of title, inter alia, of certain securities of American issue belonging to Netherlands citizens resident in the Netherlands or other natural persons resident in the Netherlands on May 24, 1940.

From these discussions it has become apparent that the Netherlands representatives agree that the Netherlands Decree A-1, as amended, is properly interpreted by all the parties as a conservatory measure which preserves the rights of the prelooting owner of the securities involved or his successors in interest. From these discussions it has also become apparent that a limited recognition of the Netherlands Decree A-1 will facilitate the disposition of the property vested in accordance with the agreement of January 19, 1951 in that this Office would be able to assign to the Netherlands Government as trustee for the present owner all the right, title and interest in a major part of such vested securities. The Office of Alien Property desires to be informed if, in the opinion of the Department of State, the recognition of the Netherlands Decree A-1, as amended, should be accorded for the following limited cases and purposes by this office with respect to vested securities as being consistent with the public policy of the United States.

a. Where the original owner of the security on May 24, 1950 was a Netherlands citizen resident in the Netherlands or any other natural person resident in the Netherlands, subject however to the qualifications set forth below.

b. In cases where an adverse claim has been filed with respect to a vested security and has not been withdrawn this office will proceed to a determination whether the claimant is the pre-vesting owner or an innocent purchaser and if the claimant is so found and the claimant meets the other requirements of the Act, the security will be turned over to him, otherwise recognition shall be accorded to the Netherlands A-1 Decree, as amended, and the security turned over to the Netherlands Government for the beneficial owner as certified to by said Government.

327640

c. In those cases where no adverse claim has been filed against the vested security, does the State Department concur that, to carry out the agreement of January 19, 1951, it should be assumed for the limited purpose of action by this Office that there is no innocent purchaser and that the beneficial owner as certified to by the Netherlands Government is the pre-vesting owner and that recognition should be accorded to the Netherlands A-1 Decree and the security turned over to the Netherlands Government for the benefit of the beneficial owner. Such a turnover is to take place subsequent to a 30-day period after a Notice of Intention to Return has been published as prescribed under section 32 (f) of the Trading with the Enemy Act, as amended. Under section 32 (f) a claimant may bring a suit within 30 days after publication of a Notice of Intention to Return against the beneficial owner and the Netherlands Government by way of attachment process. In order that such a suit may not be frustrated your Department might desire to secure from the Netherlands Government a waiver of its immunity from suit in so far as its trustee capacity under the Netherlands Decree A-1 is concerned. Similarly, under section 32 (e) of the Trading with the Enemy Act, as amended, after the turnover a suit may be brought against a person to whom return has been made to establish any right, title of interest which may exist or which may have existed at the time of vesting in the property or interest returned, by any person not ineligible to receive a return under section 32 (a) (2) of the Trading with the Enemy Act. For this purpose, too, your Department may desire to secure a waiver from the Netherlands Government of its immunity from suit in so far as its trustee capacity under the Decree A-1 is concerned and so long as the Netherlands Government retains control of the securities in its trustee capacity in order that such suits against the Netherlands Government and the beneficial owner may not be frustrated.

d. Recognition shall not be accorded in cases where the original owner was a German citizen, excluding a persecutee, resident in the Netherlands at the time of the Decree since such a person is considered an enemy under United States law. Recognition shall not be accorded in cases where the original owner at the time of the decree was not an enemy but where, by operation of law, enemy heirs have an interest in the security. In this connection the bearing of the Brussels Intercustodial Agreement of December 5, 1947 may have to be considered. Further, it is suggested that the Department of State obtain from the Netherlands Government a commitment that it will return to the Office of Alien Property all securities released, which as a result of further investigation, the Netherlands Government determines to be enemy owned according to United States law.

e. Recognition of Netherlands Decree A-1 shall not be accorded in the cases already identified totalling \$ 6,400 in face value of securities which fall in the category of heirless assets.

It should be pointed out that this letter is restricted to cases involving "Lippmann Rosenthal", "forced transfer" and "theft" types of looting. Certain other problems are involved with respect to "Rebholz Banking" looting with respect to which this office may wish to communicate with the Department of State at a later time.

The Office of Alien Property also wishes to point out that situations may come to its attention which are not covered by the categories a,b,c,d and e above and which may present a problem involving the recognition of Netherlands Decree A-1. In that event the Office of Alien Property will desire to take up such situations with the Department of State.

In releasing property under section 32 the Office of Alien Property is required to make a determination that such releases are in the national interest. Your Department has suggested to the Office of Alien Property that such a determination can be made on the basis of the background and purposes of the Memorandum of Understanding. If you advise the Office of Alien Property to this effect it is prepared to make such a determination for any releases otherwise justified in the cases here involved.

Very truly yours,

signed Dallas S. Townsend
Assistant Attorney General
Director, Office of Alien
Property.

327642

October 14 1955

Dear Mr. Townsend :

Reference is made to your letter of September 14, 1955 with respect to the recognition of Netherlands Decree A-1 of May 24, 1940, as amended by Netherlands Decree C-34 of May 7, 1942, with respect to certain securities vested by your office falling under the United States-Netherlands Memorandum of Understanding of January 19, 1951 Regarding Claims by the Government of the Netherlands to Looted Securities.

It is the opinion of the Department of State that recognition should be accorded by your office to Netherlands Decree A-1, as amended, with respect to certain vested securities for the limited cases and purposes described in your letter as being consistent with the public policy of the United States.

The Department of State concurs that, on the basis of the background and purposes of the Memorandum of Understanding, it would be appropriate for your office to make a finding that releases, otherwise justified in the cases here involved, are in the national interest.

A copy of your letter and this letter are being transmitted to the Netherlands Embassy. It is understood that the Netherlands Embassy is prepared to transmit a note to the Department with respect to the waiver of immunity of the Netherlands Government insofar as its trustee capacity under Netherlands Decree A-1 is concerned and with respect to the commitment to return any securities released which the Netherlands Government determines to be enemy-owned under United States law.

Sincerely yours,

C. Burke Elbrick
Deputy Assistant Secretary
for European Affairs

The Honorable
Dallas S. Townsend
Assistant Attorney General
Director, Office of Alien Property,
Department of Justice.

L:L/E:EMaurer:mj:mls 9/26/55 L WE

327643

The Ambassador of the Netherlands presents his compliments to the Secretary of State and has the honor to refer to the Secretary's note of October 17, 1955 concerning the recognition of Netherlands Decree A-1 of May 24, 1940 with respect to certain securities vested by the Office of Alien Property, Department of Justice, falling under the United States-Netherlands Memorandum of Understanding of January 19, 1951 Regarding Claims by the Government of the Netherlands to Looted Securities.

The Netherlands Government hereby waives its immunity in so far as regards its trustee capacity under the Netherlands Decree A-1 in suits brought by a claimant against the beneficial owner and the Netherlands Government.

The Netherlands Government assures that it will return any securities released which the Netherlands Government determines after further investigation to be enemy owned under United States law.

Washington, D. C.

October 17, 1955.

327644

The Ambassador of the Netherlands presents his compliments to the Secretary of State and has the honor to refer to recent discussions between representatives of the Netherlands and the United States concerning intercustodial claims and related matters. In the course of these discussions the representatives of the two governments have considered the question of heirless assets which was left for later determination under the United States-Netherlands Agreement of August 29, 1951 regarding United States issued securities held by Netherlands Administrative Offices and the United States-Netherlands Memorandum of Understanding of January 19, 1951 Regarding Claims by the Government of the Netherlands to Looted Securities.

The Netherlands Government confirms its intention to make available to the appropriate Netherlands Jewish organization the Jewish heirless securities involved in the Agreement of August 29, 1951 regarding Netherlands Administrative Offices. In this connection, if the last owner of a security was known to be Jewish and if the security is at present unclaimed, it shall be presumed to be a Jewish heirless security. The Netherlands Government also confirms its intention to cooperate fully with representatives of the appropriate Netherlands Jewish organization with respect to obtaining and making available all information which

might be helpful in identifying such Jewish heirless assets.

The Netherlands Government confirms its intention to follow a similar procedure with respect to securities under the Memorandum of Understanding of January 19, 1951 not heretofore identified as Jewish heirless property.

Washington, D. C.

October 17, 1955.

327646

31.7.55

Not.

FA/694/1497

7 Juli 1955.

Bijgaand heb ik de eer Uwer Excellentie een viertal afschriften aan te bieden van een nota inzake het "Memorandum concerning the implementation of the Brussels Intercustodial Agreement and the solution of related cases (United States - The Netherlands)", welke op 6 Juli jl. op het Departement van Staat werd ingediend.

Afschrift hiervan doe ik toekomen aan Uwer Excellenties Ambtgenoot van Financiën.

De Tijdelijk Zaakgelastigde,
Voor deze,

Mijnher Excellentie de Heer
Minister van Buitenlandse Zaken
te 's-GRAVENHAGE

327647

The Chargé d'Affaires a.i. of the Netherlands presents his compliments to the Honorable the Secretary of State and has the honor to refer to the Memorandum concerning the implementation of the Brussels Intercustodial Agreement and the solution of related cases (United-States-The Netherlands) of June 9, 1955 and the Annexes attached thereto (hereinafter referred to as the Memorandum).

After a careful study of the Memorandum the Netherlands Government has come to the conclusion that the solutions laid down therein and recommended by the representatives of both governments entail considerable concessions from the Netherlands side. Nevertheless, since it is clearly in the interest of both countries to achieve a settlement of the long outstanding questions involved, the Netherlands Government has decided to approve this Memorandum.

As stipulated in the Memorandum itself, before it can become binding, understanding must be reached as to the time and method of payment of reimbursement in the cases covered by Sections IV through VIII of the Memorandum. The Netherlands point of view on this matter is fully known from the discussions held from April 26 to June 9, 1955, between the representatives of both governments.

In order to reach a speedy and practical solution of this problem the Netherlands Government would be prepared to accept the following settlement.

Contrary to the provisions of articles 5 A (1) of the Annex to the Brussels Intercustodial Agreement stipulating that reimbursement shall take place within two years after the date of release, the reimbursement of the amounts due in the cases covered by Sections V (S.H.V.), VI (de Bary), VII (Pappenheim) and VIII (Stinnes) of the Memorandum shall take place within 1 year after the date of release. In the other cases reimbursement shall in principle take place immediately after the release on the understanding, however, that the Netherlands Government reserves its right to reimburse within three months after the date of release if this is required for technical reasons.

The Netherlands Government trusts that this practical proposal which meets the American wishes to a considerable degree, may be acceptable to the U.S. Government.

The Netherlands Government would like to take this opportunity to express its firm opinion that assets covered by the Brussels Intercustodial Agreement and the Memorandum may never be returned

in whole or part to the former German interests involved. In this connection the contents of the Bill H.R. 6730 of June 8, 1955 to amend the Trading with the Enemy Act, as amended, and the War Crimes Act of 1948, as amended, and the Explanatory Memorandum (Congressional Record A 4062/4067), are of particular interest to the Netherlands Government. As is known to the U.S. Government the Netherlands Government regrets the unilateral American decision to proceed to a partial return of enemy property as laid down in the above-mentioned Bill. In its opinion any arrangements with the German Federal Republic on German enemy property should be incorporated in a multi-lateral "final settlement of reparations". It has nevertheless noted with satisfaction that its opinion in connection with assets covered by the Brussels Intercautelal Agreement and the Memorandum is clearly shared by the U.S. Government.

Washington, D. C.

327650

July 6, 1955.

Hilte Hu. Jordaens
Mr. Hofman

Verhoogte

Aan Zijne Excellentie de Minister.

(d.t.k.v. de heer plv. Secretaris-Generaal)

Excellentie,

1. *benieuwd tot TC cases*
Onder verwijzing naar inliggend codetelegram, waarin de heer Rinnooy Kan machtiging vraagt tot afdoening van de intercustodiale geschillen met Amerika op basis van de in dit telegram genoemde regelingen, moge ik U terzake de volgende toelichting geven.

A. De regeling met O.A.P.

1. S.H.V.-assets in Amerika bedragen \$ 8 mln.
Het Nederlandse aanbod tot reimbursement aan U.S.A. bedroeg \$ 1.200.000
De eis van U.S.A. bedroeg " 3.200.000
Als compromis wordt voorgesteld " 1.600.000
Het komt mij voor, dat dit een zeer bevredigende regeling is.
2. De Bary-assets in Amerika bedragen \$ 4 mln.
Volgens Nederlands statement zou Duits vijandelijk belang moeten worden gesteld op 40,33% (Duits vijandelijk belang in aandelenkapitaal De Bary op 10 Mei 1940: 89,18% en op 14 Juni 1941: 96,90%). Daarbij werd dan rekening gehouden met niet-vijandelijke crediteuren.) *lijst crediteurs van wege Compromis voorstel is 63,5%. Dit betekent reimbursement aan U.S.A. van plm. \$ 2.600.000. In het eedetelegram staat 2.000.000. Dit is vermoedelijk een vergissing.*
Dit compromis schijnt niet onbezonnen.
3. Pappenheim-assets in Amerika bedragen \$ 700.000.
In Nederlands statement was voorgesteld een reimbursement aan U.S.A. van 53%, zodat een regeling conform Nederlands voorstel is (dit betekent reimbursement van plm. \$ 275.000).
4. Stinnes. Waarde Nederlandse N.V.'s per ultimo 1953 plm. \$ 5.600.000. (onbekend waarde van participaties van Nederlandse N.V.'s in Duitse Stinnes Maatschappijen).
Duits aandeelhoudersbelang in Stinnes Maatschappijen aangenomen op 53%; in 1952 werd reeds onderhandeld op basis van reimbursement door U.S.A. aan Nederland van \$ 500.000 of \$ 1,9 mln. De regeling, welke thans wordt voorgesteld en welke mij voorkomt zeer bevredigend te zijn, is een vrijgave der Stinnes-assets in Nederland, inclusief Duitse participaties.

*E. don Nederland
en USA.*

- tegen -

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tegen een U.S.A. reimbursement van \$ 1.100.000. Hieruit valt af te leiden, dat de Duitse participaties op \$ 600.000 zijn gewaardeerd.

5. Cover Account. U.S.A. Syndicaat bedraagt	\$ 1.600.000
Cover Account Henkel Consortiaal Fonds bedraagt	" 400.000
<hr/>	
Totaal	\$ 2.000.000

Het gaat hier om rekeningen respectievelijk van Hope & Co. en van De Rotterdamsche Bank. Nederland maakte oorspronkelijk aanspraak op 50% = \$ 4 mln., van welke aanspraak thans wordt afgezien omdat de toepassing van de Cover Accountsregeling op deze posten niet houdbaar bleek, hetgeen vooraf reeds verwacht werd.

6. Geen commentaar.

B. Regeling met State Department.

1. Geen commentaar.

2. Het gaat hier om de regeling van de twee laatste Amerikaanse Part IV-claims, waar R.M. injecties een rol spelen.

a) New Jersey Industries (Köster-concern)waarde assets in Nederland bedragen plm. f 2.200.000
Nederlands aanbod:bedraagt: " 1.800.000
State Department eist: " 2.200.000

Aangesien het State Department een voor de Verenigde Staten bevredigende regeling in dit geval als essentiële voorwaarde beschouwde voor de totstandbrenging van een algemene regeling werd reeds sedert enige tijd voorzien, dat hier een belangrijke concessie van Nederlandse zijde zou moeten worden gedaan.

b) claim Dentist Supply. Dit betreft verkrijging van A.K.U. Hinterlegungszertifikaten door Dentist Supply. Het gaat hier om een bedrag van nominaal f 60.000 Hinterlegungszertifikaten; het State Department heeft de waarde van de onderliggende originele aandelen A.K.U. en de daarop gefincasseerde dividende berekend op f 200.000. Aanvankelijk werd het standpunt ingenomen, dat deze claim niet zou kunnen worden gehonoreerd. Teneinde echter niet de totstandkoming van een algemene regeling in gevaar te brengen, leek ook hier een belangrijke concessie noodzakelijk.

In totaal zal, zoals blijkt, voor de Part IV claims (R.M.-gevalen) circa f 4.200.000 moeten worden betaald, hetgeen inderdaad niet erg bevredigend is.

Concluderende kan geconstateerd worden, dat met uitzondering van de bovengenoemde twee Amerikaanse Part IV cases, t.w.

/ in het alge-
meen

New Jersey Industries en Dentist Supply/een bevredigende regeling
is bereikt. Aangezien de Amerikanen hun eis terzake van New Jersey
Industries en Dentist Supply niet wensen te laten varen, en een
niet-aanvaarding van deze eis een nieuwe impasse zou doen ontstaan ,
moge ik Uwe Excellentie verzoeken accoord te gaan met de voorge-
stelde regeling en de heer Rinnooy Kan te willen machtigen
conform af te wikkelen.

DE DIRECTEUR BEWINDVOERING,

327653