

MEMORANDUM EXPLANATORY OF ATTACHED BILL

To amend the Trading with the Enemy Act, as amended, so as to allow bulk settlement of certain claims by successor organizations to heirless or unclaimed property.

The attached bill proposes an amendment to the Trading with the Enemy Act, which is necessary to attain the objectives established as United States policy by Public Law 626, 83d Congress, 2d Session. It provides authority for a swift bulk settlement of claims relating to the property in the United States of persecutees under Hitler who perished without heirs.

Public Law 626, which is now found as Subsection (h) of Section 32 of the Trading With the Enemy Act, put into effect as internal United States legislation a policy which the United States had long followed in its international relations. That policy was that heirless property which belonged to persons who had been persecuted by the Nazis in Germany or in occupied Europe for political, racial or religious reasons should be utilized for the benefit of the surviving members of that class of persecutee to which the deceased owner had belonged.

During the Nazi regime in Europe, some 6 million Jews perished. Their property, as well as the property of those who managed to survive the Nazi holocaust, had been confiscated in one form or another by the Nazi authorities. One of the first acts of the Allied forces in Europe was to rescind the old Nazi laws and to put into effect restitution procedures which would restore their properties to those persons who survived or to their legitimate heirs. Military Government Law 59 in the American zone of Germany was an early example of the implementation of this policy. It served as the model for other similar laws in the other Western zones of Germany. Moreover, its principles have been continued, and to a certain extent expanded, in connection with the Contractual Agreement which forms one of the constitutional documents for the Bonn Government.

It was obvious from the outset, however, that vast amounts of property, which had been taken mainly from the Jews, but also from various other categories of persecutees, could never be recovered by individual claimants. The reason was that these individual claimants had perished in Buchenwald and Bergen-Belsen and the other concentration camps erected by the Nazi regime. Moreover, the Nazi policy of extermination was so thorough that vast amounts of property would be unclaimed even by heirs, since whole families had been wiped out. Military Government Law 59 therefore provided a mechanism by which this heirless property could be claimed and collected by a charitable organization under procedures which ensured that the proceeds of this property would be used for a

fundamental objective of the Allied nations -- the relief and rehabilitation of those who had formerly been persecuted.

The organization which was designated by General Clay under Military Government Law 59 to collect the Jewish heirless properties was a New York charitable membership corporation known as the Jewish Restitution Successor Organization (J.R.S.O.). This organization was founded by a cooperating group of well-established and responsible Jewish organizations in the United States. It had as its objective the filing and the processing of claims for Jewish heirless property. It was accredited to the American occupation forces, was recognized as performing a task which was basic to the Allied occupation of Germany, and cooperated closely -- as it still does today -- with the American authorities in Germany.

It was logical, therefore, that the Congress of the United States should take cognizance of the similar, though much smaller, problem of heirless property here in the United States. Immediately after the war, the Congress had unanimously passed legislation amending the Trading With the Enemy Act and providing that political, racial or religious persecutees could obtain return of their property which had been vested here in the United States by the Alien Property Custodian, even though they were technically "enemy". (In most cases, of course, these persons were in fact stateless.) An individual who was fortunate enough to survive the Nazi regime, and who had been persecuted, could therefore apply to the Alien Property Custodian for return of his property and get that property back. But a substantial number of persons who would have been eligible claimants, and who had property in the United States, had perished, together with their entire families, in Nazi Germany or in the Balkan satellites. It seemed logical, therefore, that the action which had been taken by the United States -- and by the other Allied authorities -- in Germany in regard to heirless property should serve as the model for action with respect to heirless property here in the United States. Legislation incorporating this proposal was put forward in several successive Congresses, always on a bipartisan basis and with the support of such distinguished Senators as Senators Taft, McGrath and O'Connor. It should be noted that this legislation was first introduced in 1948, three years after the end of World War II. It was the conviction of the distinguished sponsors of this legislation seven years ago that this matter must be handled with dispatch in the interest of the surviving victims of Nazi persecution.

In the 83rd Congress, a bill to this effect was sponsored by Senators Hennings, Dirksen and Langer, and that bill became Public Law 626. It established the principle that heirless property found in the United States should be used, under strict standards laid down in the legislation, for relief and rehabilitation of the surviving category of persecutees. It is indicative that the legislation provides that no portion of the funds to be made available to a successor organization under Public Law 626 is to be used for administrative or legal expenses. Reports are to be made to the Congress and every safeguard is present to ensure that the totality of the funds will be used within the United States for the relief of deserving, needy persons.

The legislation required the designation of a successor organization which would be charged with the quasi-public duty of carrying out its provisions. In January of 1955, President Eisenhower issued an Executive Order designating the Jewish Restitution Successor Organization as the successor organization under Public Law 626. Since that time, the Jewish Restitution Successor Organization has been engaged in the monumental task of attempting to ascertain the nature and extent of the heirless property in the United States, to file claims within the time limit provided in the law and to devising a method in cooperation with the Office of Alien Property of the Department of Justice for the expeditious and speedy processing of these claims.

The Jewish Restitution Successor Organization was faced with the fact that no one -- no private individual and no Government office -- had any lists, records, or organized sources of information available which would indicate which were the properties or interests which, under the law, the Jewish Restitution Successor Organization was entitled and in duty bound to claim. Procedures therefore had to be devised. On request, the Office of Alien Property provided a list to the Jewish Restitution Successor Organization. This list contained the names found in all of the vesting orders issued -- some 44,000 of them -- by the Office of Alien Property during the years of its existence since World War II. Experts then carefully examined these lists and, from their knowledge of European communities and nomenclature, and in some cases from direct knowledge, put together another list containing those names which were distinctively Jewish. This acknowledgedly rough material was then subjected to the series of refining processes. First, the Office of Alien Property went through the lists and checked off those names as to which title claims -- that is, claims for return of the property -- already existed. Quite clearly, except in those cases in which the claim might be disallowed, these names did not represent assets to

which the Jewish Restitution Successor Organization could properly lay claim, since it can, in any case, ask for the return to it only of unclaimed property. The Jewish Restitution Successor Organization then filed, as putative successor under Public Law 626, thousands of claims, which in general -- though not entirely -- reflected those names as to which no conflicting title claim was pending. This was a monumental task, which had to be completed by mid-August, 1955.

Subsequent to the filing of these claims, the Jewish Restitution Successor Organization again engaged upon a refining process. It undertook to re-examine and analyze its lists, in order to withdraw all of those claims which appear to be not well-founded. In this process, some thousands of claims have been withdrawn.

There are now on record and docketed with the Office of Alien Property some 6,899 Jewish Restitution Successor Organization claims. Of these, there is no conflicting claim in 4,558 cases, and there is an adverse title or debt claim in 2,341 cases. It should be pointed out that for present purposes it has been necessary to lump together adverse title and debt claims, so that it may be presumed that even in the latter category of cases some values will accrue to the Jewish Restitution Successor Organization, assuming, as seems reasonable, that debts against vested assets do not in all cases come to 100 percent of the value of those assets.

The above recital is, we believe, sufficient to indicate the absolute necessity of legislation which would permit and direct the Office of Alien Property to work out a bulk settlement of these claims with the Jewish Restitution Successor Organization. In the absence of a bulk settlement, the J.R.S.O.-- which by statute is prohibited from debiting any of these funds to its administrative expenses -- would have to process at least 4,500 individual claims. The ordinary claimant has difficulty enough in assembling proofs and evidence. And he, it will be remembered, knows what property he is claiming, what his proofs are, where the property was located in the United States, what bank held his deposit, etc. In almost no case is the Jewish Restitution Successor Organization in possession of this kind of basic information at the outset.

Ascertaining the facts and assembling the proofs in thousands and thousands of cases, where by definition the original owners and their entire families are dead and vanished, their records generally burnt or destroyed, is an administrative and practical task of such magnitude as to stagger the imagination.

It is so great a task, in fact, that it seriously jeopardizes the clear objective which the Congress sought in enacting Public Law 626 -- the provision of heirless funds, speedily and without deduction of any kind, for the relief of surviving, needy persecutees now in the United States. It is certain that the sponsoring Senators and the Congress did not anticipate the enormity of this Administrative task when Public Law 626 was enacted.

Moreover, the processing of this vast number of claims would throw an intolerable burden not merely on the Jewish Restitution Successor Organization, but also on the Office of Alien Property. Even on the basis of the Office of Alien Property's present workload, which includes approximately 7,000 pending title claims apart from those filed by the J.R.S.O., it would be years before it could process the J.R.S.O. claims. Should legislation be passed by the next session of Congress which provides for a program of partial or other returns to former enemy owners, the burden on the Office of Alien Property will be increased. Under these circumstances, if the purposes of Public Law 626 are to be attained, a bulk settlement of the J.R.S.O. claims is a necessary amendment to the Trading With the Enemy Act.

There is ample precedent in heirless property matters, for bulk settlements. Bulk settlements have in fact been worked out by the J.R.S.O. with the various German laender -- that is, German states -- in the American zone of Germany and in Berlin. These bulk settlements have had the enthusiastic endorsement and support of the United States Government, of the Bonn and laender governments, and of all interested in achieving relief and not in shuffling papers. They provide a method for cutting through what would otherwise be years of expensive processing of thousands of individual claims.

A bulk settlement, of course, must be worked out on the basis of estimates. Estimates, however, are infinitely to be preferred to a long drawn out and highly expensive procedure which can result only in the building up of enormous administrative expenses which would have to be borne by the charitable funds -- not to neglect the appropriation of substantial amounts which would have to be provided to the Office of Alien Property so that it could process these thousands of individual claims.

The J.R.S.O. has therefore worked out step-by-step procedures which will minimize the risk of error in the preparation of the necessary estimates upon which a bulk settlement can be based. It has discussed these plans with officials of the Executive and Legislative Branches in order to make them as careful and the results as accurate as possible.

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A very careful winnowing of the claims on file before the Office of Alien Property, discloses that there are 4,558 of what may be called clear claims-- that is, claims as to which there is neither an adverse title claim nor any debt claim pending. In addition, one must, of course, reckon with the 2,341 claims of the Jewish Restitution Successor Organization where there is some adverse title or debt claim; and one must also take into account the possibility that the so-called omnibus accounts of Swiss or other banking institutions may contain substantial amounts of heirless property.

The J.R.S.O. does not assume that all of the claims on file by it represent heirless property. Clearly, if the property covered by these claims was Jewish, and if there is no adverse claim, the property is heirless and unclaimed. Persecutees or their heirs have had the right since 1946 to file individual claims for the return of their property. If they have not done so, the presumption is inescapable that the property is heirless--a presumption recognized, in fact, in Public Law 626. In this connection, it may be pointed out that Public Law 626 provides that individuals who in fact have survived or heirs of such individuals, and who are eligible claimants under the present provisions of the Trading With the Enemy Act, may within a period of two years apply to the successor organization and obtain return of their assets if the successor organization has claimed those assets on the assumption that they are deceased.

The basic problem which confronts both the Government and the J.R.S.O. is to find out how many of the claims thus on file represent persecutee property. In order to do this, the J.R.S.O. has taken an entirely random sampling of the claims. This sampling was made entirely on the basis of the chance occurrence of addresses in the material made available to the J.R.S.O. by the Office of Alien Property. In other words, if the J.R.S.O. had the address of the putative persecutee in such a way as to make investigation possible, that name was included on a list, and the list was sent to Germany for investigation. The investigators were instructed to look at birth records, land records, the church or Jewish community records, the records of the International Tracing Service -- anything which would indicate whether the person in whose name the claim had been filed by the J.R.S.O. as successor was or was not a persecutee, was or was not alive, did or did not have heirs, etc.

The intensive work which has already been done in this connection has served to dramatize the difficulties which the J.R.S.O. and the Government face in determining the facts. The tremendous disruption which occurred in Germany as a result of many factors is the basic cause for these difficulties. In the

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case of persecutees, people were, of course, shifted from one part of Germany to another and ultimately to concentration camps. Persecutees were deported, sent to work in some cases in concentration camps or elsewhere, and records were extensively destroyed by bombardment and by damage resulting from the war. In many cases, all of the birth records or other public records of entire cities were completely destroyed during the course of the war. The investigation has therefore disclosed that in a great many cities the names and addresses of people whose assets were vested by the Office of Alien Property, and whose addresses as given in the vesting orders were the last known addresses in Germany, have completely disappeared so far as any present search can indicate. It is clear, of course, that a great proportion of those who have disappeared entirely were persecutees, since the normal German resident, or members of his family, will have reappeared in some of the current records of the German city in which such residents previously lived. Attention is invited to the fact that only 3% of the pre-Hitler Jewish population of Germany still reside there today. The task of tracing from presently available records -- whether those are the old records as they have survived or new records created since the war -- thousands of probable persecutees is one of such enormous complexity and presents difficulties of such magnitude as to be almost insuperable. Particularly in the case of those persons who appear to be Jewish, these records are in many cases entirely missing. In addition, it will be recalled that Public Law 626 provides for utilization of all vested assets of persecutees for the charitable purposes of the law, and that this includes assets of persons in such countries as Rumania, Bulgaria and Hungary. In the case of those countries, the Nazi destruction of the Jewish population was tremendous; but under present circumstances the existence of the iron curtain makes it impossible to do any checking whatsoever.

Under the best of circumstances, the tracing of thousands of names would present administrative difficulties of the highest order. Under these special circumstances, the task is, as was said, almost insuperable. Making the best estimate which can be made on the basis of these eminently unsatisfactory and difficult data, it is felt that at least 50 percent of the claims which have been filed by the J.R.S.O. with the Office of Alien Property do conservatively represent legitimate heirless property claims. This estimate is based on ability of the J.R.S.O. in some cases actually to establish the fact that persons were Jewish; inability to find any existing record of such persons in circumstances which indicate that the Jewish population of a particular city was deported and the records destroyed; and all other data, such as checking of the

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records of the International Tracing Service, which are admittedly incomplete but which might cast some light on the situation.

It is therefore estimated that 50 percent of these claims do represent property to which under Public Law 626 the J.R.S.O. is entitled. Thus the problem arises of determining what the average value of the J.R.S.O. claims is.

Some statistical material which has been prepared on three separate occasions and by two separate sets of people is of significance in this connection.

In 1950 -- before passage of Public Law 626 -- an analysis was done in New York from vesting orders which at that time were available in the New York office of the Office of Alien Property.

Closely examined were 155 vesting orders, against which no title claims were pending. Thirty of these orders covered properties which are part of estates. These cases had an average value of \$3,000 with a high of \$14,000 and a low of \$100. The majority of the J.R.S.O. claims have been filed for assets in this category. The balance of 125 vesting orders covered a variety of assets not pertaining to estates, which were found to have an average value of \$2,700 per order.

Independently from the aforementioned survey -- but utilizing information on individual case values prepared at that time -- 177 claims filed by the J.R.S.O. were recently analyzed. These were all claims filed by the J.R.S.O. under Public Law 626 on which -- as a result of the work done in 1950 -- value figures were available. In these cases, a total value was found of \$202,014.06. This came to an average value per claim of \$1,141.32.

The Office of Alien Property itself checked the first forty J.R.S.O. claims in which the case files were sufficiently complete to permit analysis. The average value per claim was over \$3,000. This limited Office of Alien Property sampling includes one property of over \$120,000, which lifts what may be called--without suggesting that it has been adopted by the Government -- the Office of Alien Property average. But in any case it appears safe to assume that the value of the average J.R.S.O. claim is over \$1,000.

At least 50 percent of the 4,558 clear J.R.S.O. claims may be taken to represent claims cognizable under Public Law 626. The figures indicate an average value of upwards of \$1,000 per claim. On this basis alone, an estimate of \$2,250,000 is arrived at as the total value of J.R.S.O. claims. In addition, it must be remembered that there are 2,341 claims of the J.R.S.O. as to which there is some adverse title or debt claim, but in which there is undoubtedly a considerable surplus value to which the J.R.S.O. would be entitled. In addition, there are the amounts which are involved in the so-called omnibus accounts. These

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are accounts held through Swiss or other banks. A certification procedure was put into effect with respect to these accounts some years ago which allowed legitimate claimants to come forward and to obtain the release of their properties held in these accounts. Some portion-- although admittedly the figure is indefinite -- of the amounts which remain uncertified and therefore still in the hands of the Office of Alien Property must necessarily represent heirless assets, though, of course, a considerable amount may represent other types of property.

In addition, there is not included in these figures the amount involved in the so-called von Clemm claim. Here there are over \$900,000 worth of diamonds, assertedly obtained from the infamous Diamond Kontor of Berlin, whose sole function was the disposal of diamonds looted from Jewish persecutees. This claim is presently before a hearing examiner of the Office of Alien Property, and the J.R.S.O. has presented its claim and will present evidence during the course of the hearing. Official reports of the United States High Commissioner in Germany will show that the Diamond Kontor existed for the purpose of disposing of looted gems.

The J.R.S.O. has therefore suggested an amendment which will authorize and direct the settlement of its claims by payment of an amount to be not less than \$2 million nor more than \$3 million. The \$3 million ceiling was incorporated in Public Law 626 in order to ensure that amounts payable to the J.R.S.O. would not exceed the financial availabilities out of assets and funds within the hands of the Office of Alien Property. The \$2 million floor is equally appropriate. Obviously, a tremendous amount of administrative work has already been done, some of which has been indicated in the previous portions of the present statement. A substantial amount of administrative work, in addition, will have to be done by the J.R.S.O. in the effective presentation of its claims and ⁱⁿ implementation of Public Law 626. It was clearly the view of the Congress in enacting Public Law 626 that some substantial amounts should be made available for the purposes of that law. The J.R.S.O. is in effect a trustee of charitable funds -- both those which it may receive under Public Law 626 and those which it receives from other sources, but which are devoted to similar relief and rehabilitation work. It would not be appropriate, nor would it be in accordance with the clearly expressed intent of the Congress, to require that this tremendous amount of work be done without a guarantee of some substantial funds being available. Just as the ceiling of \$3 million was inserted for practical administrative reasons, without regard, in effect, to the possibility that the claims might exceed that amount, and was accepted on that basis, so the suggested \$2 million floor ought be con-