

Germany Restituted

general
[1948]

DRAFT OF A LETTER TO THE NEUTRAL POWERS

1. The Paris Conference on Reparations stipulated, in Article 8 of the Final Act that :

" In recognition of the fact that large numbers of persons have suffered heavily at the hands of the Nazis and now stand in dire need of aid to promote their rehabilitation but will be unable to claim the assistance of any Government receiving reparation from Germany, the Governments of the United States of America, France, the United Kingdom, Czechoslovakia and Yugoslavia, in consultation with the Inter-Governmental Committee on Refugees, shall, as soon as possible, work out in common agreement a plan"

for the assistance of these non-repatriable victims of German action.

2. During the five Power Conference on Reparation for Non-Repatriables just concluded in Paris, the designated countries in consultation with the Inter-Governmental Committee on Refugees have worked out a plan and signed an Agreement dated of the 14th of June, a copy of which is attached. The Paris Conference on Reparation, cognizant of the serious plight of the non-repatriable victims of German action, provided that "a share of reparation consisting of all the non-monetary gold found by the Allied Armed Forces in Germany and in addition a sum not exceeding 25 million dollars shall be allocated for the rehabilitation and resettlement of non-repatriable victims of German action".

3. The Paris Conference on Reparation, aware of the Nazi policy of racial extermination also took note of the existence of considerable assets in neutral countries belonging to victims of German action who died without heirs.

4. Although it is recognized that "heirless funds" are not strictly a reparation matter since many individuals who died without heirs were not German nationals, the Paris Conference on Reparation nevertheless charged the Five Power Conference on Reparation for Non-Repatriables to request the neutral countries to make such assets available for the rehabilitation and resettlement of non-repatriable victims of German action. The "heirless funds" having arisen out of

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a violation of every canon of morality and international law, it appeared proper to the Paris Conference on Reparation that the neutral countries be requested to make these funds available to help succor non-repatriable victims of German action who, of all the victims of Hitlerite aggression, were most in need of the assistance of sympathetic governments.

5. In accordance with the obligation placed upon it by the Paris Conference on Reparation, the French Government in the name of all the signatory powers to the Paris Conference on Reparation, formally requests the neutral Powers to make available for the rehabilitation and resettlement of non-repatriable victims of German action all assets in their countries of victims of German action who died without heirs, in accordance with the following general plan :

A. To take all necessary action as quickly as possible to identify, collect and liquidate all "heirless funds". The Five Power Conference on Reparation for Non-Repatriables recognizes that serious legal, administrative and fiscal obstacles may stand in the way of expeditious action, but it requests the neutral Powers to take all necessary steps, including special legislation, to accomplish the stated action. Since "heirless funds" arose out of a condition unique in international affairs, this request for an exceptional solution is justified.

B. Because the overwhelming part of the "heirless funds" were the property of Jewish victims of German actions, including regimes under Nazi influence, the above mentioned Agreement of the 14th of June stipulates that ninety-five percent of the proceeds should be made available directly and jointly to the Joint Distribution Committee and the Jewish Agency, organizations best fitted to use these funds for the rehabilitation and resettlement of Jewish victims of German action, as soon as the Director of the Inter-Governmental Committee on Refugees or the Director General of the successor Organization certifies that these designated organizations have presented practicable programs for rehabilitation and resettlement in terms of the above mentioned Agreement. It further stipulates that five percent of the proceeds

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which it presumes to be a liberal estimate of that portion of "heirless funds" belonging to non-Jewish victims of German action be made available to the Inter-Governmental Committee on Refugees for the rehabilitation and resettlement of non-Jewish victims of German action, including regimes under Nazi influensis.

C. The signatores to the above mentioned Agreement have designated the Governments of the United States, France, and the United Kingdom to act on their behalf on all further aspects of this problem, in any future negotiations with the neutral countries.

6.- In making the foregoing requests, the French Government confidently relies on the sense of justice and morality of the neutral Powers to act energetically and sympathetically with respect to the identification, collection, liquidation and distribution of "heirless funds" and thereby to associate themselves with the Powers signatory to the Paris Conference on Reparation in assisting the Non-Repatriable victims of German action to rehabilitate themselves and to find new and permanent homes./.

C O P Y

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DRAFT

YIVO 26347-7
Am. Jew. Com (R0041-46)
Box 31, File 6

20 May 1948

(FAD=Frgn Afrs
Dept)
Box 31 File 6

AGREEMENT BETWEEN THE COMMANDER-IN-CHIEF, EUROPEAN COMMAND, AND
THE JEWISH RESTITUTION SUCCESSOR ORGANIZATION (JRSO) AS TO
JRSO'S OPERATION IN THE UNITED STATES AREA OF CONTROL IN GERMANY

I. Whereas the Jewish Restitution Successor Organization (hereinafter referred to as JRSO), a non-profit corporation incorporated under the Membership Corporation Law of the State of New York of the United States of America, has been designated by CAGUS in Order No. 1 pursuant to Regulation No. 3 under Military Government Law No. 59 as the Successor Organization authorized to claim Jewish property under Articles 8, 10, 11 and 13 of Military Government Law No. 59; and

whereas the carrying out of the functions for which the JRSO has been designated in the aforesaid Order No. 1 will facilitate the accomplishment of an important objective of the occupation; and

whereas in order to accomplish this function the JRSO and its personnel requires certain logistic support and aid from the occupation authority, the Commander-in-Chief, European Command, United States Army (CINCEUR) and the JRSO have agreed as follows:

II. Military Government will

1. a. (1) provide the JRSO with office accommodations and maintenance therefor at all levels;

(2) provide the JRSO with such warehouses, garages and like facilities as may be required for the storage of JRSO property and supplies, together with necessary building maintenance;

b. provide suitable living accommodations for JRSO personnel in accordance with regulations and scales prescribed by CINCEUR for civilian employees.

Payment must be in United States dollars. For the purpose of this Agreement the term "JRSO personnel" refers to American or United States personnel of JRSO;

c. where possible, provide JRSO personnel with access to occupation authority messes, subject to payment by individuals concerned or to reimbursement by JRSO, or provide bulk rations for sale to the Commission and/or its personnel;

- d. provide all JRSO personnel with access to post exchanges, sales stores, laundry, dry cleaning and shoe repair installations, messes and recreational facilities on the same basis and subject to the same restrictions as those applicable to civilian employees, in like status, of the occupation authority;
- e. provide to the extent practicable, necessary POL and spare parts for JRSO vehicles, subject to advance payment or reimbursement by the JRSO for imported items and any items involving the expenditure of appropriated funds. To the extent possible provision for spare parts and repair items will be from German sources;
- f. provide maintenance facilities for JRSO vehicles. Such maintenance will, to the extent practicable, be provided from German sources. Where maintenance is provided to the Commission from sources involving expenditure of appropriated funds such maintenance is chargeable against JRSO reimbursement;
- g. provide for JRSO communication facilities within the United States Area of Control, together with appropriate priorities. These facilities will include telephone communications at all JRSO offices and installations;
- h. authorize the use of such Army postal service and finance facilities by JRSO personnel as is provided for the occupation personnel and subject to the rules and regulations prescribed by the occupation authority. Franking and free mail privileges will not be afforded.
- i. provide JRSO with rail transportation facilities within the United States area of Control for JRSO property and personnel on official business. For leave purposes facilities will be provided on the same basis as for civilian personnel of the occupation forces;
- j. provide, on the same basis as for civilian personnel of the occupation forces, medical, dental, hospital and burial facilities for JRSO personnel.

III. Payment for services and facilities furnished JRSO or JRSO personnel will to the extent required by the occupation authority be paid for in United States Military Payment Certificates or in legally acquired Reichsmarks.

IV. JRSO personnel shall be subject to Military Government Law and courts for offenses committed by them in the United States occupied area. JRSO personnel shall have in general the same privileges and immunities as civilian employees of the occupation forces who are in the same status.

V. The occupation authority assumes no financial responsibility for risk, injuries or death occurring to JRSO employees, nor for any claim arising against JRSO employees or agents except in cases in which the occupying authority would be liable under existing regulations.

VI. This agreement shall come into force on _____ 1948.

Commander-in-Chief, European Command
LUCIUS D. CLAY
General, U. S. Army

Jewish Restitution Successor Organization
Joseph Pink

_____ 1948

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MEMO
PREPARED BY
HEVESTI OF AM.
JEW. COM. AFTER
MEETING [RJC]*

MAIN TOPICS

OF THE MEETING WITH GENERAL CLAY ON OCTOBER 16, 1947

In November, 1946, the Jewish organizations in the United States, and General Clay, at a meeting held in New York, achieved complete understanding on the kind of restitution law in Germany which would satisfy both the viewpoints of the United States Military Government, and the interests of the Jewish victims of Nazism. In this understanding, substantial concessions were made, by both sides, for the sake of the speediest possible enactment of legislation governing property restitution at least in the United States Zone of Germany.

Since then, almost a year has elapsed without the promulgation of any restitution statute. Delay followed delay, for the purpose of achieving full inter-Allied agreement on a general code covering all Germany. It is manifest that such inter-Allied agreement would have freed the United States Military Government of the ever-growing political onus of granting greater satisfaction to Jewish needs than the other Allied authorities in Germany.

The negotiations of General Clay with the other occupying powers failed completely. Only the British authorities had displayed willingness to negotiate but only in a manner which was calculated to delay real action, and, at any rate, to whittle down important provisions in the American draft (approved even by the German Laenderrat of the United States Zone) which rendered justice to Jewish as against German interests. This British attitude was related also to British policy with regard to Palestine.

Ever since November, 1946, the Jewish organizations have kept urging unilateral action in the United States Zone alone, in order to secure, at last, concrete action on the relatively fair basis represented by the United States draft law approved by the Laenderrat last February. Finally, last August they obtained the promise that October 1, 1947 would be considered the final target date for unilateral enactment in the American Zone, provided there was, until then, no agreement for joint action with any of the Allies.

In the last minute, the British once again indicated their willingness, in principle, to enter a bi-zonal restitution agreement, running along the lines of their (and the other Allies) proposals which proved utterly unsatisfactory from the Jewish point of view. They requested, however, another delay of three weeks of grace to allow them to obtain formal authorization from London. With regard to his commitment to act on October 1, General Clay refused to accept this further postponement, and invited the German Laenderrat in the United States Zone whether they were willing to enact a zonal law as a piece of German legislation. The Laenderrat's answer was that the matter would be put up to decision by the three Land parliaments at the end of November. (This delay may give the British another opportunity to announce once more their readiness to enter into a bi-zonal arrangement on the grossly unsatisfactory conditions made by them.)

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Confronted with the delaying tactics of the Germans, General Clay finally instructed his staff to prepare for the enactment, by United States military order, of a unilateral law, to be promulgated by October 20.

For this purpose, and in the last minute, a new American draft was hurriedly prepared which represents a poor compromise between the original and fair United States draft, and the wishes of the other Allied powers favoring German interests. The Jewish organizations received this final draft only a few days ago, only to find that some of its decisive provisions fall very far short of meeting the basic requirement of justice.

One of the objectives of the discussion with General Clay will be, therefore, the clarification of these grave shortcomings of the draft bill.

Another major complex of themes to discuss will be the need of the issuance of certain military executive implementations of the proposed statute that will safeguard against sabotage by the planned purely German restitution judiciary.

It is of equal importance to obtain from General Clay the final and formal recognition of the Jewish Restitution Commission as the successor organization for Jewish heirless, unclaimed and communal property, and the clarification of its authority.

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Accordingly, the discussion ought to encompass the following major groups of problems:

1. Unsatisfactory features of the final draft bill.

a. Dangerous weakening of the power of avoidance.

The original United States draft (approved by the Laenderrat) granted all victims of persecution the absolute power of avoidance of all transactions entered into by them under Nazism, with the sole exception of such normal transactions which would have come about even without the existence of National Socialism.

In a skillfully camouflaged way, Section 3 of the final draft kills this vital presumption by providing that the right of avoidance may be rebutted by showing that the transferor was paid a "fair purchase price" which was placed at his free disposal. This may easily be interpreted by the German restitution judges as to mean that if the buyer paid off the seller, he keeps title to the property even if two days later the selling price was confiscated by the Nazi authorities. It will be necessary, therefore, to call the General's attention to this provision which in the great majority of cases may simply prevent restitution.

b. The problem of property confiscated for public purposes (Section 16 of the final draft).

Executive clarification and narrowing down will be needed of the categories of property expropriated by the Nazis for "public utility" purposes which, according to the draft, will not be subject to restitution.

c. The selection of restitution judges.

The original United States draft provided that of the three judges of each court, only the presiding judge must be a German lawyer, the two others may be lay assessors, one of them to belong to the class of persecutees. The new draft prescribes, however, that all three judges must be lawyers admitted to the German bar. The result is that there will be almost no Jewish assessors in the courts, and even most "persecutee" assessors will be non-Jewish German lawyers. The probable consequences of this change must be pointed out to the General, at least in support of our request for the establishment of a United States Military Government Board of Appeals. (See below). The establishment of such a United States review board was promised to the Jewish organizations by General Clay in November 1946.

2. Executive Implementation.

For adequately implementing the restitution law, the following requests will have to be submitted to the General:

a. The Jewish Restitution Commission.

By order of the Military Government, the Jewish Restitution Commission should be appointed successor organization to Jewish heirless, unclaimed and communal

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property. The Commission should be granted the necessary facilitation and status to permit the effective performance of its task.

b. Military Government Board of Appeals.

The greatest possible stress must be laid on the establishment of such a Board with power to hear appeals from decisions of the German restitution courts, to review such decisions both as to fact and law, and to issue opinions and general rules binding on the (German) restitution courts.

c. Proctors.

The Board of Appeals should appoint Proctors to observe the functioning of the restitution courts, and to advise the Board of Appeals of difficulties and inadequacies in the administration of the law.

d. German court members.

To avoid the appointment of Nazi sympathizers as restitution judges, the assignment of judges to the restitution courts should require the consent of the Military Government.

3. Questions of detail which may arise in connection with the above recommendations.

a. Method of acquiring marks for purposes of refunds of received payments, without having to pay for them in foreign exchange.

b. The question of voluntary assignments of claims to the Restitution Commission.

c. The question of heirless baptized Jews and the rights of the Jewish Restitution Commission.

(These questions will be discussed by the technicians accompanying the delegation).

* * *

Great emphasis will have to be laid upon the suggestions enumerated under 1 and 2 above, especially upon clarification of the unjust new Section 3, and the appointment of the United States Board of Appeals. However, a flat rejection of the present law, however badly drafted, does not seem advisable because it may involve considerable further delay of action, and a return to even worse bi- or multilateral premises.

The predictable tactical attitude of the General will be to stress that he is proceeding with the unilateral enactment with great reluctance, against his better judgment, and convinced that his action would be unpopular even in the United States. He is likely to insist that some of the bad features cannot be eliminated from the new bill because the doors must be kept open for the other Allies subsequently to join.

YIVO 26347-7

Am. Jew. Com (1940 41-46)

Box 31, File 7

(FAD=FOREIGN AFFAIRS
DEPARTMENT)

Box 31 File 7

JRSO EXECUTIVE COMMITTEE MEETING

Wednesday, March 29th, 1950 - Two Sessions

At the offices of the Jewish Agency

Present: Dr. Israel Goldstein, JAFF - Chairman
Dr. Nahum Goldmann, JAFF
Mr. Maurice M. Boukstein, JAFF
Mr. Monroe Goldwater, JDC
Mr. Moses A. Leavitt, JDC
Dr. Isaac Lewin, Agudas
Mr. David Glickman, AJC
Dr. Nathan Stein, Council of German Jews
Mr. High Salpeter, JCR
Mr. Eli Rock, JDC - Secretary

Attending: Dr. Eugene Hevesi, AJC
Dr. Simon Segal, AJC
Dr. Hannah Arendt, JCR
Dr. Stephen S. Kayser, Jewish Museum (first session only)

Attending second session of the meeting only:

Mr. Epstein - Jewish Labor Committee
Mr. Silber - " " "

Mr. Friedman - Council of Jewish Federations and Welfare Funds
Mr. Gurin - " " " " " " "

Mr. Halperin - B'nai B'rith (representing Col. Bernstein)

Mr. Gross - Jewish War Veterans

Dr. Heller - Synagogue Council of America

First Session - 2:15 P.M.

The only item on the agenda for this portion of the meeting involved the disposition of the paintings and other art objects which had been turned over to JRSO in Germany and shipped to this country. Mr. Rock reported that these objects had been appraised in Germany at a value of over \$60,000, and that they had been brought over with the idea that they be sold and the proceeds used for JRSO purposes. However, when the collection was brought over and evaluated by experts in this country, it was revealed that the value was very much lower than had been anticipated and that in fact the value was closer to \$6,000 than to \$60,000. Mr. Leavitt stated that the operating agents had studied the problem together with Dr. Kayser of the Jewish Museum, where the objects are presently stored. It appeared that there were 35 paintings in the collection which could be used by museums in Israel, since they represented styles of painting not now available there.

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These paintings would have to be restored at a cost of \$500, which sum would be added to the some \$4,000 already expended for the transportation, insurance, storage, etc. of these objects. The balance of the paintings and other art objects could be sold in this country, and the proceeds applied to meet the above mentioned expenditures. Excluded from this would be one wooden religious statue which would also be sent to Israel since the government of Israel wanted to present it to a Christian monastery there.

Dr. Kayser explained how the great discrepancy arose between the evaluation in Europe and in this country. He pointed out, for example, that there was one Sisley in the collection which had been appraised in Europe at \$40,000. It was not an outstanding work of that master, however, and could be actually expected to bring no more than \$3,000. Dr. Kayser further stated that the selection of the 35 paintings which could be used in Israel had been made with the help of Dr. Moses of the Tel Aviv Museum. The restoration of the paintings would be done by an expert recommended by Prof. Friedlander, and the cost of that restoration was extremely low. Before these paintings were shipped over, they would be exhibited at the Jewish Museum. As for the sale of the balance, Dr. Kayser felt that this should not be done through an auction, since the objects here involved were not of a type to attract general purchasers. Rather they should be sold through private channels.

Mr. Boukstein pointed out that the latter problems were technical ones which might be left to the operating agents. The matter before the committee involved two questions of principle, 1) the shipment to Israel of 35 paintings, after their restoration, and 2) the sale of the balance of these objects in the U.S., the proceeds to be applied against the expenses incurred by the operating agents in connection with the total collection.

Dr. Lewin stated that he objected to the whole manner of procedure. It was his feeling that these objects, as the former property of murdered Jews, constitute a valuable heritage of the Jewish people, and he suggested that the whole collection be turned over intact to the Israeli government, to be preserved and exhibited by them as a memorial to the great catastrophe. It was his feeling that the low value of the collection did not warrant a sale, but on the other hand he suggested that no restoration be done in this country and that it rather be left to the museums in Israel.

It was pointed out to Dr. Lewin that the museums in Israel, through Dr. Moses, had refused point blank to accept the collection as such. They had absolutely no use for any of the items except the above mentioned 35 paintings. It was also pointed out that most of these items had absolutely no value, neither financial nor artistic, and that often the nature of the previous ownership was even doubtful. Furthermore Dr. Kayser stated that there was presently no one in Israel who could restore a painting, and that any such job would have to be done in this country.

Dr. Stein then stated that he was in agreement with the procedures outlined by the operating agents, but would make one reservation. He suggested that the existence of this collection be advertised to the public before it was disposed of, so that any individual who felt that his property might be included could be given

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the opportunity to examine it, and, if he could submit valid evidence of ownership, it might be returned to him. Dr. Stein suggested that this could be easily achieved by issuing a press release to the JTA, so that there might be widest circulation in the Jewish press. Mr. Leavitt indicated that such a provision would be acceptable to the operating agents, provided it entailed no further expense.

Rabbi Lewin made a motion to the effect that the entire collection be turned over, as it is, to the Israeli government. This motion was defeated, with Dr. Lewin registering the only affirmative vote.

A motion was then made and seconded that the operating agents be authorized to proceed with the restoration of the 35 paintings to be shipped to Israel and with the sale of the balance of the collection in this country. The proceeds from the latter would be applied to the restoration of the aforementioned 35 paintings, as well as against the expenses previously incurred by the operating agents. Provisions would also be made to inform the Jewish community of the existence of the collection in advance of any disposition. The motion was carried, with Rabbi Lewin voting against it.

Second Session - 3 P. M.

Dr. Goldstein, as Chairman of the meeting, welcomed the representatives of the outside organizations who were present at this occasion. He stated that JRSO was presently confronted by a number of problems of interest to Jews all over the world and was therefore anxious to share its experiences and problems with the other groups. Dr. Goldstein briefly outlined the history, objectives and structure of JRSO and spoke of the substantial amounts of heirless and unclaimed property which could be recovered by JRSO. He pointed out that the actual recovery of property has been an extremely slow process and the need has become apparent for some other method to effect more speedy settlement. Time is working against the organizations and the attitude in Germany is becoming more and more unfavorable towards restitution. Mr. McCloy recognized that and has been very helpful in urging the Germans to speed up the legal processes involved.

Matters at this time have come to such a point where it has become apparent that the only effective manner of procedure would be to obtain an over-all bulk settlement from the German Government. If and when these settlements were obtained, there would then arise the question of effecting a transfer of these funds, which could best be done by an export of goods to Israel. Such a project on the other hand would require dealings with the German government, both at top level and also on lower levels. The JDC, the Jewish Agency, and the Government of Israel would undertake the responsibility for such negotiations. However, such dealings might have certain effects on Jewish public opinion, and it was therefore the purpose of this meeting to acquaint the various Jewish organizations with the possibility of such procedures taking place and discussing with them the various problems involved.

Dr. Nahum Goldmann then pointed out that this is a difficult situation particularly from the public relations point of view. Any bulk settlement and transfer which is effected must be done in agreement with the German government. The Americans and other allies certainly would not impose such a program on the Germans; in fact, they may raise objections to it. If the Germans do consent to such a plan,

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they will do so definitely with an idea of obtaining thereby some kind of "moral rehabilitation", and this is a factor which should be kept in mind.

Taking all these factors into consideration, it was the feeling of the responsible bodies in Israel that these transfers nevertheless should be effected if possible, and we should not forfeit our rightful claims for the sake of a gesture. Dr. Goldmann emphasized that there was unanimity among all groups in Israel on this view. The government of Israel will determine what goods will be transferred and how the transfer will be effected. They do not want to flood Israel with German consumers goods, but will rather seek capital goods.

Dr. Goldmann stressed that there was no intention ever of taking any "gifts" from the Germans. On the other hand, it is the unanimous feeling of the three groups involved in this project that payment and transfer of the assets which rightly belong to the Jews must be obtained from Germany, even if negotiations with the Germans are unavoidable in the process. Otherwise, there will be no practical way of getting back from the Germans the heirless property looted from the Jews and the Germans would simply retain that property.

Dr. Lewin stated that he was in agreement with a plan to remove the heirless and unclaimed assets from Germany if possible, but he would be greatly concerned that the Germans not be permitted to obtain a favorable "bargain" through this device.

Mr. Epstein stated that he personally would feel that it would indeed be necessary to remove these assets, and that he would feel that there should be no scruples about dealing with the Germans in this connection. On the other hand, he pointed out that Jewish public opinion will be very reluctant to accept such a fact.

Dr. Heller stated that he had recently returned from Germany and was convinced that utmost speed is indeed of greatest importance in all these matters. He felt that if there were much delay, the opportunity for effecting this transaction at all might be lost. He was apprehensive, however, that the publicity on such a matter would have an adverse effect on Israel's prestige, and he therefore suggested that some device might be found to control the publicity which were issued on such a project.

Mr. Leavitt indicated that he shared Dr. Heller's concern about the unfavorable effects of publicity, and he urged strongly that there be no publicity at all in the matter. It was still extremely doubtful whether the program could be effected at all, and in addition there was no certainty as to just how much money would be obtained or that actual payment could be realized in the predictable future. In the meantime, any publicity, particularly if it mentioned large figures, would undoubtedly be very harmful to the UJA campaign and should be avoided at all costs. Mr. Leavitt expressed the hope that if some information should reach the public, JRSO would be permitted to make all the necessary explanations.

Mr. Segal then stated that one of the difficulties now confronting this plan is the fact that the government of Israel, as well as the large Jewish organizations, had always in the past been very strong in their statements that they

would have no dealings at all with Germany. Mr. Segal suggested that such statements might be avoided in the future. Also he felt that it might be better if such bodies as the Israeli government and the JDC and the Agency were not directly involved in these negotiations. It might be better if these matters were left entirely to JRSO and handled as JRSO matters, particularly since the other organizations were members of JRSO anyway. To this Dr. Goldmann replied that such a procedure would unfortunately not be feasible. First, JRSO has jurisdiction only in the U.S. Zone, while these matters should be settled on an over-all, West German level with the Bonn Government. Furthermore the Germans would not deal with bodies which were not well-known and reputable representatives of world Jewry in such a matter, so that the prestige factor was most important.

Dr. Stein pointed out that in his opinion a different approach should be taken to the present problem. He feels first, that a careful appraisal of all of the claims in all three western zones should be made. Approaches for settlement should then be made in concrete terms, based on the evaluations thus attained, and these approaches should also contemplate specifically the possibility of using ECA funds in the settlement. In addition Dr. Stein argued that the present approach should not be made independently of the claims of individual claimants and that the latter problem should also somehow at least be kept in the background of the discussions.

Dr. Goldstein answered by saying that the first part of Dr. Stein's comments could be discussed at the next meeting of the JRSO Executive Committee. With respect to the problem of individual claimants, he pointed to the consistent JRSO policy of not becoming involved in the numerous complexities of the individual claims and that the discussions, certainly for this time, would have to be limited to heirless property.

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MEMORANDUM

BACKGROUND INFORMATION

REGARDING THE PROBLEM OF BULK SETTLEMENTS

WITH GERMANY

A. U.S. Military Government Regulation No.3 under Military Government Law No.59 of June 23, 1948, appointed the Jewish Restitution Successor Organization (for the U.S. Zone of Occupation in Germany) as "the successor organization authorized to claim Jewish property" pursuant to the terms of Articles 8,9,10 and 11 of Military Law No.59, generally known as the Restitution Law for Identifiable Property in the U.S. Zone of Occupation in Germany.

Article 10 of Law No. 59 provides that "a successor organization shall be entitled to the entire estate of any persecuted person who died without heirs. In addition, Article 10 authorizes the successor organization to file and prosecute claims, with the legal position of the claimant, upon any property of persecuted persons for which no petition for restitution was filed by an individual claimant before December 31, 1948.

In the British zone, a similar Jewish successor organization is about to be appointed on almost identical terms, meaning that that title to all restituted Jewish heirless property will be vested in an ad hoc Jewish successor organization not only in the American but also in the British zone. In all likelihood, a similar solution will soon be adopted also in the French zone, meaning that in all Western Germany special Jewish successor organizations will hold title to all estates of any Jewish persecuted person who dies without heirs.

B. The aforementioned U.S. Military Government Regulation No.3 established the following conditions for the designation of a successor organization:

(a) it must be a "non-profit, charitable organization";

(b) it must be "representative of the entire group or class which it is authorized to represent"; and

(c) it must "use its assets for the general benefit of the members of the group or class which it represents, or for such other non-profit or charitable purposes as may be approved by Military Government."

C. U.S. Military Government Regulation No.3 provides further that the IRSO.

(a) shall function "in accordance with the conditions and limitations imposed by Military Government and by its certificate of incorporation and by-laws;"

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- (b) "shall be operated as a non-profit organization;"
- (c) "shall have the same tax exemptions as an 'organization of public usefulness' (gemeinnutzige Organisation) has under German Law;" and that
- (d) all of its operations "shall be subject to all Central Council and Military Government legislation, military regulations and applicable German laws."
- (e) Regulation No.3 authorizes the IRSO alone to have "all rights possessed by German entities and individuals, with respect to the inspection of property and records," and, in addition, to "request permission to inspect such other documents and records held by Military Government or German governmental authorities or German persons as ORSO determines to be relevant to the proper performance of the functions of IRSO."

D. The aforementioned rights and privileges, authority and standing, and title to restituted property established by Military Government Law No.3 appertain, in the U.S. zone, exclusively to the IRSO as sole appointed successor organization for Jewish heirless property. The above specified conditions of appointment can and do apply exclusively to the IRSO. Insofar, as the U.S. zone is concerned, the IRSO is the sole "representative of the entire group or class which it represents." The legislative history of the heirless property clauses of Law 59 clearly establishes the fact that in the face of strong opposition in Washington and Frankfurt, these decisive clauses were inserted in the draft law by Gen. Clay himself only on the basis of personal assurances given the Commander-in-Chief by Judge "Rockner to the effect that the IRSO was "representative of Jews all over the world." The effective date of the recognition of this tot 1 and exclusive representative role in this domain of activities of the IRSO by Military Government Regulation No.3 was June 23, 1948, i.e., forty days after the establishment of the State of Israel.

As indicated before, the same exclusive legal position is about to be adjudged to the Jewish successor organization to be appointed in the British zone, and likely to be adjudged to a similar body in the French zone.

These appointed successor organizations alone are legally entitled to claim, hold title to, possess, dispose of, and negotiate and conclude agreements of any nature about Jewish heirless property in Germany. Accordingly, it is their exclusive statutory competency to negotiate and conclude agreements also with regard to bulk settlements on heirless property and transfers abroad of proceeds of such property. This legal competency does, by rights, not belong to, and cannot be claimed or shared by any other body, including the State of Israel. From a juridical point of view, it is completely inconceivable on what legal grounds, forensic or international, any spokesman for Israel may claim any ius standi for the Government of Israel for "direct negotiations" with the German authorities on any aspect of the heirless property problem in Germany.

It is manifest, therefore, that the IRSO is the sole authorized guardian of Jewish interests in all matters pertaining to Jewish heirless and unclaimed property in Germany. Apart from the aforementioned legal bases, this sole competency is, in part, anchored also in the fact that restitution is, under the Occupation Statute, "a power reserved to the Occupation Authorities." This fact indicates that even the German Federal Republic has only strictly limited powers in matters of restitution.

E. Ever since the establishment of the Jewish State, the Israeli authorities and public opinion have displayed a passionately negative attitude to the idea of any contact between Israel and Germany. Israeli spokesmen both in Israel and in Germany have publicly demanded in the name of Jewish self-respect that all Jews leave Germany without hesitation or delay, including native citizens of Germany. Last November, the Jewish Agency publicly threatened all Jews in Germany that anyone who had not registered for emigration to Israel would be left to his own devices. The entire Zionist press in Germany called upon all Jews to leave Germany, and proclaimed that Jews remaining in Germany would "drag our honor in the dust, and debase the memory of our dead." In January, the Jewish Agency Executive decided that all Jewish social and political activity was to come to an end in Germany on December 31, 1949. All Jewish DP political parties in Germany, from the Mapam to the Heruth, had ratified this decision, and the Jewish Agency itself is reported to be in the process of being "phased out". Today the Yiddish press no longer appears. The Israeli Consulates in Frankfurt and Berlin have been closed, and the Munich Consulate was ordered to stay open only as long as it can remain accredited solely to the U.S. military authorities, instead of the Bonn government. To avoid even indirect contact with the German government, this Consulate has even refrained from seeking the transfer to the U.S. High Commission of its old accreditation to the U.S. Military Government, for fear that through the High Commission it might get in touch with the Bonn Government.

The Israeli Government's official point of view of no intercourse with Germany has resulted in the systematic boycotting and cold-shouldering of German government representatives, everywhere. Confidentially speaking, this attitude went so far as to result in an informal request by an Israeli representative in Germany to our Paris Office that the AJC use its influence in Washington to prevent the admission of German consular representatives by the Western Allies. In Israel, it was announced in January that Israeli citizens would be denied visas for Germany. At the same time, it was announced that Germans would not be granted Israeli visas.

Chancellor Adenauer's recent offer to "place goods valued at ten million Deutsche Marks at the disposal of the State of Israel for reconstruction purposes, as a first and direct token that the wrong done to Jews everywhere by Germans must be redressed," had met with the frostiest possible reaction in Israel. It is perfectly true that any German financial offer to Israel should have first been cleared with the Israeli government; it is also true that the Adenauer statement was apt to create the impression that the proposed small token gift might have been intended to serve as a settlement of the total complex of Jewish claims against Germany. The fact is,

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that a few days after the Adenauer interview had appeared, numbers of press dispatches from Tel Aviv breathing "implacable hatred", and demanding the rejection of the offer, were featured in the German press. At the same time, DP leaders in Germany poured out their scorn over the statement, and those who accepted it at face value. The world Jewish Congress used the opportunity to call again upon the German people officially to assume full political responsibility for the extermination of the Jewish people, pointing out that such responsibility cannot be shaken off by "speeches or financial offers."

No Israeli spokesman has ever found the Adenauer statement worthy even of mentioning.

E. On moral and psychological grounds, it is perfectly understandable that the Jewish State should apply this "no intercourse" formula to a people that had killed six million of its innocent kinfolk. Among most Jews, such uncompromising attitude would certainly strike a chord of instinctive sympathy and approval, regardless of its practical consequences to Israeli economic interests. Few Jews are likely to raise the question whether Germany or Israel would be more severely "punished" economically by this attitude.

The crux of the matter is, however, that so long as this attitude prevails and is not expressly and publicly revoked by the Israeli Government, any direct negotiations between her and the Bonn government remains a matter of grave moral and political risks for Israel.

It was a drastic departure from these premises when, on March 29, Dr. Shmuel Goldman suddenly told the Executive Committee of the IRSO that Israel was determined to have a direct role in the planned negotiations with the German authorities on bulk settlements and transfer to Israel in capital goods of the proceeds of heirless property in Germany, and when he declared that now Israel was prepared to exploit the German need for "moral rehabilitation", by assuming a direct role in these negotiations.

that
We have established the fact/Israel has no legal right and standing whatsoever to conduct, or participate in, such negotiations, and that even Germany has only limited jurisdiction in matters of restitution.

The only point at which it would be motivated to consider Israeli needs in the course of the planned negotiations, would be the determination of the selection of German goods to be shipped to Israel. It is evident that the IRSO could negotiate this list of goods just as well as Israeli representatives, on the basis of a binding agreement with Israel by virtue of which only goods acceptable to Israel would be included in the list.

Dr. Goldman stated, however, that Germany expects her "moral rehabilitation" to emanate from Israel, and would not agree to a satisfactory list of supplies of capital goods to Israel without obtaining in the bargain this "moral rehabilitation" from Israel.

It is submitted that there is no evidence to the validity of this interpretation, namely that the Israeli stamp alone would make Germany's "moral rehabilitation" a bargaining object in this deal. It is very likely that German propaganda would just as successfully exploit such "moral rehabilitation"

if forthcoming from the IRSO, the sole competent Jewish body in this matter, a body which, at the same time, is "representative of Jews all over the world."

It is also manifest that Israel would automatically and irrevocably forfeit the value of this "moral" bargaining object by the mere fact of sitting down to negotiations with the Germans. The "moral rehabilitation" of Germany would be inherent already in this fact, and its bargaining value would be lost for Israel with the first handshake that moment, the Germans would have obtained what they wanted, and would see no further reason for giving Israel the goods it wanted.

It is, of course, up to the Israeli government to determine whether it can morally and politically afford the sudden, overnight change from the position of moral boycott to that of the "moral rehabilitation" of Germany, - for the sake of German supplies of machinery and pre-fabricated houses of unpredictable quality and value. But the question is how would the Israeli government live down a situation in which it would have granted "moral rehabilitation" to Germany, and would, at the same time, be compelled to put up with German consumers goods, the only supplies the Germans would give them, and every piece of which on the Israeli market would be a challenge to the moral authority of the government, and a provocation to every consumer in Israel?

The "moral rehabilitation" of Germany by Jewry is a question of high principle which must be determined on its own merits, and not on the basis of the merits of a passing barter deal.

But even if the material needs of Israel are so burning as to impose upon us such a bargain, any odium that may arise from it should stay with the temporary, ad hoc, and sole legally competent organization, the IRSO, which after the completion of the transaction, would go out of existence and carry with itself into oblivion the entire affair.

9. On these grounds it is suggested that the AJC urgently and formally recommend to the IRSO that the IRSO, this temporary and ad hoc Jewish entity stay exclusively responsible for all phases of the proposed negotiations with Germany; that the two operating agents of the IRSO, the AJOC and the Jewish Agency, should conduct all phases of these negotiations exclusively in the name of the IRSO, ~~the AJOC and the Jewish Agency, should conduct all phases of these negotiations exclusively in the name of the IRSO~~ (instead of their own name as permanent Jewish agencies); and, mainly, that the IRSO Board of Directors should, in a discreet and friendly manner, prevail upon the Israeli government to abandon the idea of any participation on its part in those negotiations.

With regard to the latter suggestion, it is pertinent to note that, at least on principles, restitution of Jewish property, including that of heirless assets, is our recognized right anyway, without any need for concessions, moral or otherwise on our part. Any precipitate offer of Germany's "moral

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rehabilitation" by Israel in exchange for a German performance upon which we have a formal claim anyway, may prove to be such a sign of a weakness as to wreck instead of strengthening our position in negotiations conducted with the participation of Israel. It would be much wiser, therefore, for Israel to postpone the use of this bargaining object until, at some later date, new, additional Jewish interests of the nature hinted at in Dr. Adenauer's statement ("material redress for wrongs done to Jews") may be ripe for discussion.

A decision with regard to these suggestions is all the more urgent as an interview on this subject with Mr. McCoy was requested and obtained for April 10 by Dr. Goldman of the Jewish Agency and Dr. Schwartz of the AJDC (without previous clearance with the Board or Executive Committee of the IRSO).

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HEADQUARTERS
JEWISH RESTITUTION SUCCESSOR ORGANIZATION
APO 696 A U. S. ARMY

YIVO RG 347.7
AJC (EAD 41-46)
Box 310 File 7

1 December 1949

American Jewish Committee
30 Rue La Boetie
Paris, France

E x p r e s s

Attn: Mr. Schuster

Dear Mr. Schuster:

I am attaching the section of the Special Report published by Military Government on the progress of restitution. I believe that this report will provide you with a precise summary of developments in the U.S. Zone since Law 59 was promulgated. I regret very much that no more material is available in concise form. You may wish to check with Dr. Wehle at the AJDC.

Sincerely yours,


SAUL KAGAN
Director

Incl.

Plans and Operations Board.

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ly 8,000, were carefully investigated by the Property Control field staff. Every effort was made to locate the claimed properties and place them under control. Information concerning ownership, origin, and present location was compiled and forwarded to the Restitution Branch, OMGUS, for decision as to whether or not the property was eligible to leave Germany. Where the property was located, a custodian was appointed to safeguard it against theft and deterioration.

In general, however, the work of locating the properties and making shipment proved extremely slow. To expedite the External Restitution Program, six American personnel from OMGUS were assigned to temporary duty in the field, beginning 1 July 1948, for the purpose of winding up the External Restitution Program by 31 December 1948. It was their mission to assist German Property Control authorities and Military Government representatives in the accurate and speedy location and identification of claims, and to screen and spot check all reports from German Property Control authorities. By 31 December 1948, all property connected with outstanding restitution claims had either been placed in custody or the claims had been dropped. To make an equitable disposition of all dropped claims, a policy was formulated for determining ownership before the property was returned to the person who held it at the time of custody. This involved further investigation on the part of the Property Control field staff, but insured that the properties were returned to their rightful owners.

As of 30 June 1949, there remained under control 598 units awaiting shipment. Until a final determination is made by the State Department as to policy pertaining to such shipments of properties belonging to Hungarian, Lithuanian, Latvian, etc., owners, such properties must remain in control. All other properties in this category which could have been shipped under existing Military Government policy have been shipped. As of 30 June 1949, the External Restitution Program, insofar as it affects Property Control, may be considered complete. After that date, such properties taken under control will be limited to "meritorious" 1/ claims and will only be taken under custody at the request of Restitution authorities.

MISCELLANEOUS

Disposition of Captured Enemy Material and Funds Derived from the Sale Thereof

Since the inception of the Property Control Program, considerable quantities of captured enemy material and funds derived from the sale thereof had been held in Property Control custody. No action could be taken to correct this situation until a statement of policy was received from the Department of the Army as to what items are to be considered as captured enemy material.

The statement of policy from the Department of the Army, 2/ as supplemented by decision of Military Government, 3/ indicates that, in order to be considered

1/ Meritorious claims are claims for items which can be proved by the claimant nation to have been concealed by conspiracy on the part of the holder.

2/ Following is an excerpt from pertinent AGWAR (Adjutant General, War Department) cable WX-81794: "Subject is captured enemy property." "As matter of policy you will treat as captured enemy material only property which was owned or held for direct military use by enemy military forces."

3/ Early in 1947, Military Government policy (MER 11-422) provided as follows: "All captured enemy material (CEM) under the control of the U.S. Forces, except such as is to be retained by the U.S. Army, is to be transferred against quantitative receipt to the German economy through Staatliche Gesellschaft zur Erfassung von Ruestungsgut GmbH or such bizonal successor agency as may be established. All CEM and funds derived therefrom, now subject to the control of Military Government, or which may come into its possession or under its control, will be turned over to the above-mentioned German corporation. CEM is defined as all movable property owned or held for direct military use by enemy military forces, which has been acquired by the U.S. Army (in most cases not later than 8 May 1945, but in no case later than 5 June 1945) and seized by the U.S. Army and reduced to 'firm possession.' The term 'firm possession' is deemed to require a manifestation or intention to seize the particular property and exercise some type of custody or possession thereof."

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captured enemy material; the property involved must meet the following conditions:

- a. It must have been movable property owned or held for direct military use by enemy military forces.
- b. It must have been acquired by the U.S. Army in most cases not later than 8 May 1945 but in no case later than 5 June 1945.
- c. It must have been seized by the U.S. Army and reduced to "firm possession." The term "firm possession" is considered to require a manifestation of intention to seize the particular property and to exercise some type of custody or possession thereof.

Sale of Goods into the German Economy Through STEG 1/

To assist the German economy, a plan was devised early in 1947 whereby captured enemy material (CEM) would be turned over to a German corporation organized by the Laender governments.

To expedite the program of transferring captured enemy material, the Land Property Control chiefs were requested to make a complete survey of all CEM and funds derived from the sale thereof and to make the necessary preparations for a speedy transfer to STEG. 1/ All such property has now been transferred to the appropriate German agency.

In October 1948, Property Control Circular No. 7 was promulgated and provided, in part, for complete release to STEG of "war materials" as defined and enumerated in Control Council Law No. 43. All items under Property Control which were mentioned in Schedules A and B of said law were transferred to STEG for disposal into the German economy.

In some instances, movable properties which were subject to rapid deterioration, belonging to United Nations and absentee owners, were also transferred to STEG for the purpose of utilization in the German economy. In such instances, however, the proceeds of the sale, less selling expenses (in no event exceeding 20%) were placed in a blocked account for the benefit of the absentee owner. Property Control authorities reserved the right to scrutinize over-head charged or selling expenses deducted by STEG from the proceeds of sales.

TREATMENT OF DURESS PROPERTIES

Introduction

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

Control Council Proclamation No. 2 on "Certain Additional Requirements Imposed on Germany," 2/ provides in Section XI, paragraph 42 (b), as follows:

"The German authorities will comply with such directions as the Allied representatives may issue regarding the property, assets, rights, title, and interests of persons affected by legislation involving discrimination on grounds of race, color, language, or political opinions."

1/ Staatliche Gesellschaft zur Erfassung von Ruestungsgut GmbH. (State Collection Agency for Surplus War Goods).

2/ See Annex XV, p. 84.

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This policy was also clearly restated in the Directive on U.S. Objectives and Basic Policies in Germany, of 15 July 1947, 1/ which states:

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

Administration of Control Over Duress Properties

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

Property Control action was taken on the basis of Section 2, Article I of Military Government Law No. 52 (revised text, July 1945) 2/ which provided as follows:

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

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

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

The 15 August 1945 Directive, 3/ for example, extended the denazification provisions of the 7 July 1945 Directive, "Administration of Military Government in the U.S. Zone of Germany," 4/ to influential Nazis and militarists in all walks of life and authorized control action over the properties of all persons removed or designated hostile to Allied purposes. The latter were deemed to be included in the class of persons whose properties were rendered subject to seizure or control by Military Government pursuant to General Order No. 1, issued under Military Government Law No. 52.

The "Law for Liberation from National Socialism and Militarism," 5/ enacted

✓ Military Government Regulation (MGR) 23-2050.

✓ See Annex IX, p. 65.

✓ See Annex IV, p. 50.

✓ See Annex III, p. 48.

✓ See Annex V, p. 50.

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by the German Land Governments in the U.S. Zone to replace the 15 August 1945 Directive, has continued German responsibility for denazification in accordance with principles established by Control Council Directive No. 24 "Removal from Office and from Positions of Responsibility of Nazis and of Persons Hostile to Allied Purposes."

The policy of Military Government has been to retain properties of a duress nature under control pending final settlement of the case before Restitution authorities, as provided for under Military Government Law No. 59. An exception to this policy has been in the application of MGR Title 17-501, ^{1/} which authorizes the release of properties of insignificant value, if said properties could be adequately safeguarded by other means, i.e. blocking of transfer of title.

Promulgation of Military Government Law No. 59 ^{2/}

Upon request of Military Government, the Laenderrat, through its Property Control Committee, with the assistance of Military Government officials, prepared the draft of a law providing for the restitution of identifiable property which, for reasons of race, religion, nationality, ideology, or political opposition to National Sozialism, was a subject of transfer under duress during the Nazi regime. In March 1947, the substance of this draft was approved by the Property Disposition Board, OMGUS, in which all interested functional divisions were represented.

In submitting the law, the Laenderrat made the following comments:

- a. That a just settlement of restitution could not be achieved without enacting a uniform restitution law in all four zones, and that a law limited to one zone gave rise to serious apprehensions;
- b. That the draft law failed to allow the Restitution Tribunals such freedom of action as required to safeguard an equitable treatment of the individual cases on their merits;
- c. That the provisions of the draft law would lead to hardship for honest persons who had acquired the property in good faith;
- d. That the time limit it allows for filing of restitution claims until 31 December 1948 was too long.

Military Government submitted a paper to the Allied Control Authority in April 1947, proposing a uniform restitution law for Germany based on the Laenderrat draft. After discussions of this proposal for over seven months, it was clear that quadripartite agreement was impossible. Discussions then proceeded with a view to reaching agreement with British Military Government on a bizonal law, but it appeared that such an agreement was also not possible in the near future. To avoid further delay, it was decided to proceed with the promulgation of a restitution law for the U.S. Zone on a unilateral basis.

Because of certain agreements reached with the British Element, and in some cases with the other powers, in respect to some of the provisions of the draft law, certain changes were suggested in the Laenderrat draft which incorporated these agreements and did tend to alleviate the apprehension expressed by the Laenderrat. On 3 October 1947, the Laenderrat was asked whether the four Ministers President constituting the Laenderrat were prepared to promulgate in their respective Laender a law based on the draft submitted by the Laenderrat as modified in the manner indicated above. On 7 October 1947, the Laenderrat could not reach a unanimous decision and it appeared to Military Government observers unlikely that the Laenderrat would ever agree to approve the enactment of a restitution law which would be limited to the U.S. Zone only. Therefore, Military Government advised the Laenderrat of its intention to promulgate the restitution law as Military Government Law No. 59 on 10 November 1947.

^{1/} See Annex VI, p. 52.

^{2/} See Annex XIII, p. 72.

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Military Government Law No. 59 is based on the original Laenderrat draft, with necessary modifications so as to correspond to agreements reached on some provisions with the other powers, and others which were necessary to remove certain technical defects from the draft law.

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

Military Government Law No. 59 provides for filing of petitions with the Central Filing Agency for the restitution of identifiable property. The expiration date for such filing was 31 December 1948.

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

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

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

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

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

There are presently 20 Restitution Agencies, 13 Restitution Courts, and 6 Oberlandesgerichte (appellate courts) -- exclusive of the Board of Review -- in the U.S. Zone.

The Jewish Restitution Successor Organization, established at Nuremberg, with branches located in a number of cities in the different Laender of the U.S. Zone under previous authorization given by Military Government, commenced, in the first week of October 1948, the examination of approximately 80,000 reports affecting properties presumably transferred under duress circumstances. Information secured from these reports has provided a basis for the preparation of petitions. As a result, approximately 165,000 petitions were filed with the Central Filing Agency prior to 31 December 1948, the expiration date for the filing of petitions under Military Government Law No. 59, in connection with every Jewish property reportedly transferred between 30 January 1933 and 8 May 1945.

In the middle of November 1948 authorization was issued for similar examination of the reports on file with the Central Filing Agency by accredited representa-

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tives of approximately 14 Military Missions and Consulates of foreign nations.

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

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

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

Other considerations were the following:

- a. Claimants had 13 months in which to file;
- b. Titles to properties which may be claimed for restitution have been in a state of uncertainty for 3½ years and will remain so until the final deadline for filing claims;
- c. Modifications of the law with respect to time for filing may lead to requests from various sources to make other changes in the law;
- d. It was desired that all possible burdens and uncertainties imposed by Military Government on the German people and economy be terminated before the Occupation Statute ^{1/} becomes effective.

Most of the requests for an extension in the expiration date were based upon the argument that information considered essential to a claim was not available or accessible. This argument was not considered to be very strong, and Military Government consistently advised claimants that the provisions of the law are adequate, since minimum information only need be filed initially. A petition filed with the Central Filing Agency before 31 December 1948 and containing a description of the confiscated property and stating as exactly as possible the time, place, and circumstances of the confiscation and the names and addresses of all persons having, or claiming to have, an interest in the property would be sufficient to bring their claim within the statute of limitations. Any further information that might be required for settlement or adjudication of the claim could be submitted thereafter to the Restitution Agencies or Restitution Courts, as required.

For the foregoing reasons, Military Government did not extend the expiration date for the filing of claims.

A comprehensive reporting system designed to provide pertinent information as to the status and progress of every claim, and to indicate the progress made by the various Restitution authorities, was placed in operation in the early part of 1949. Supervisory authority will therefore be enabled to notice trends and to spot weaknesses or bottle-necks and be permitted to take early corrective action where required. The reporting and control system was designed to enable close supervision with a minimum of Military Government personnel.

^{1/} The Occupation Statute defines the powers to be retained by the Western occupation authorities after the establishment of the Federal Republic of Germany. The document was delivered to the Parliamentary Council on 10 April 1949.

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

Subsequent to the enactment of Military Government Law No. 59 (10 November 1947), and after passage of a period of time considered sufficient for the dissemination of knowledge of its provisions, a further modification in policy was deemed advisable. By a directive issued 15 July 1949, Property Control action was directed thereafter only in those cases where notice of the filing of petitions under Military Government Law No. 59 with the Central Filing Agency was received. A further directive issued 3 August 1948, however, authorized exercise of Property Control action, notwithstanding the fact that no petition had been filed with the Central Filing Agency under Military Government Law No. 59, if it appeared that irreparable damage might be done to a claimant's interests unless the property were taken into control.

Pending final disposition of claims or petitions under Military Government Law No. 59, properties under control will be managed efficiently and impartially. Of the 220,551 petitions received by the Central Filing Agency, 206,279 had been forwarded as of 30 June 1949 to local Restitution authorities for final adjudication.

Status of Restitution Program -- 30 June 1949

Duress properties under control as of 30 June 1949 numbered 30,333.

Restitution Petitions Received by the Central Filing Agency
U.S.-Occupied Area
As of 30 June 1949

| | |
|--|---------|
| TOTAL | 220,551 |
| Complete from claimants | 52,153 |
| Incomplete from claimants | 2,016 |
| Petitions from Jewish Restitution Successor Organization (JRSO) | 163,262 |
| Petitions from public prosecutor | 3,120 |

The progress of the cases, through the Restitution Agencies and other Restitution authorities is most encouraging. As of 30 June 1949, 37,428 petitions were actually received by the various Restitution Agencies. Of these, 9,672 are available for final disposition in view of the fact that service, as required under the law, is complete. Of these cases, 2,383, or 24.6 percent of those available for final disposition, have been finally disposed of as follows:

Disposition of Restitution Petitions
U.S.-Occupied Area
As of 30 June 1949

| | |
|---|-------|
| TOTAL | 2,383 |
| Amicable Settlements | 985 |
| Petitions granted by Restitution Agencies and not appealed | 133 |
| Petitions dismissed by Restitution Agencies, Restitution Chambers, & Oberlandesgerichte, ^{a/} and not appealed | 512 |
| Petitions withdrawn from Restitution Agencies, Restitution Chambers, & Oberlandesgerichte | 633 |
| Decisions of Restitution Chambers, not appealed | 115 |
| Decisions of Oberlandesgerichte, not appealed | 5 |

^{a/} Appellate courts.

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Restitution in Berlin and British and French Zones

Military Government Law No. 59 is, at present, not applicable to the U.S. Sector of Berlin. However, on 16 February 1949, an order was issued by the Allied Kommandatura to the Oberbuergermeister of the city of Berlin, providing for the establishment of a Central Filing Agency to receive reports and claims pertaining to property located in the three Western Sectors of Berlin transferred under duress. Negotiations with British and French authorities continued, and early in July 1949 a restitution law for the three Western Sectors of Berlin was promulgated. With very few exceptions this uniform law is the same as U.S. Military Government Law No. 59.

A filing of restitution claims in the British Zone is presently covered by General Order No. 10, which provides that claimants have until 31 December 1949 to file restitution claims. British officials request that all claims be filed directly with Das Zentralamt fuer Vermoegensverwaltung (Central Office for Property Administration), British Zone, Bad Nenndorf, Lower Saxony.

Early in 1949, British Military Government authorities promulgated a restitution law in their zone almost identical with the restitution law in the U.S. Zone, and also identified by the same number, namely, British Military Government Law No. 59.

Only claims in excess of 1,000 marks will be considered under General Order No. 10. All persons who have any knowledge of property changing title under duress in excess of 1,000 marks since 30 January 1933 were required to make declaration to the administrative head (Landrat) of the rural district (Landkreis) or to the chief mayor (Oberbuergermeister) of the municipality (Stadtkreis) in which he or she resided.

In the French Zone, all claims for restitution have to be filed within 18 months of date of enactment of Ordinance No. 120, which became effective 10 November 1947. The French have established special courts in each Land to try restitution cases. These courts consist of a presiding judge and two other members, and the courts have exclusive jurisdiction over all restitution cases. Claims for real property must be filed with the court in the district in which the property is located. Claims for restitution of personal property must be filed with the court in the district where the person has his regular place of residence.

Status of Restitution under a General Claims Law

In the U.S. Zone, the Laenderrat, pursuant to request of Military Government, has prepared and submitted a General Claims Law. Said law was finally approved by Military Government.

To date no comparable action has been taken in the British Zone. In the French Zone, the redress of wrongs resulting in damages or personal injuries, not connected with claims for the restitution of identifiable property, has been charged as a German responsibility under Ordinance No. 164.

JULY 1949

*Restitution - Summary -
U S Zone*

Report No. 3
of the
Jewish Restitution Successor Organization

on the
Restitution of Jewish
Property
in the U.S. Zone of Germany

October 1st, 1949
Hamburg, Germany

340570

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I. Scope of the Report.

This report is a supplement to Report No. 1 of 1 October 1949 which covered the initial organization of the JRSO and Report No. 2 of February 1949 which explained how the filing of claims was successfully completed. The recovery of some of the assets lost through Nazi persecution has begun. The amount of painstaking work and technical detail involved was and is enormous and the vast bulk of this very arduous program still lies ahead. Substantial progress has been made and Report No. 3 deals with the achievements of the JRSO since February and some of the vexing problems yet to be overcome.

II. The Operation of Military Government Law 59.

Less than 3,000 cases of individual claimants have been finally settled, either amicably or by adjudication under the restitution law. The rate of progress shown by the German Restitution Agencies and courts has been totally inadequate to accomplish the declared goal of "speedy restitution". This fact has been pointed out by the JRSO to the highest Military Government officials and a specific program for acceleration has been suggested. The American Board of Review has not yet rendered a single decision and the functions of the Board will be taken over by the Military Government courts for Germany. The effect of this change will depend upon the calibre of persons to be assigned the review function. The JRSO has strongly urged the High Commissioner and the new General Council to appoint a permanent panel of competent judges for the full-time supervision of the German restitution courts. Under the Occupation Statute restitution is one of the fields reserved to the Occupying Authorities but to what extent the U.S. officials will be prepared to exercise this power in enforcing law 59 is yet to be determined.

III. The Operation of the JRSO in Germany.

1. Organization and Administration.

The Allied staff of the JRSO has been increased from 10 persons to 15 persons and the German staff which had exceeded 300 before the filing deadline and had decreased to 68 in March 1949 rose to 120 by the end of September. Two new offices were opened giving the JRSO 9 offices including Headquarters throughout the U.S. Zone.

Military Government ceased providing U.S. facilities or logistic support for individuals and organizations not directly sponsored by the United States. The JRSO managed to retain these facilities as a governmentally sponsored non-commercial agency.

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The High Commissioner desires to place as many organizations as possible "on the German economy" as conditions improve and how long the JRSO can remain in the "privileged" class is another uncertain matter. Non-occupation cost DM funds will continue to be advanced to the JRSO until April 1950 on the basis of a budget approved by General Clay and it is therefore not probable that the problem will become acute before that time. The DM and Dollar expenditures of the JRSO continue within the limits fixed in the approved budgets.

2. Functional.

After the JRSO had filed over 163,000 claims the next step consisted of categorizing those claims, eliminating duplicates, and carefully comparing the JRSO petitions with the approximately 50,000 claims filed by individuals, in order to determine what would be unclaimed by individuals and thereby remain as a valid JRSO claim. This process, which depended upon the speed with which the German offices receiving the claims could make certain essential information available to the JRSO, was completed in September. It is now known that the JRSO is the sole claimant to about 10,000 houses, 15,000 plots of land, and uncounted thousands of securities, bank accounts, movable items and shares in businesses. For each such claim it is now necessary to determine the exact conditions of confiscation or sale, the past and present income and value of the property concerned, the present condition and sale value of the property and a host of other details. Clearing title to Jewish-owned securities is particularly complicated since substitute securities are now being issued under a new German law. This program of research and investigation is now taking place and will be accelerated. Negotiations for the settlement of any case cannot begin until all this information is assembled concerning the property in question and it is therefore planned to have the file of every JRSO case concerning real estate completed by the end of this year.

While the checking process mentioned above was taking place the JRSO was conducting the necessary investigations and negotiations concerning properties where it was known that there could be no individual claimant. This consisted of about 1,000 properties of dissolved associations, endowments and communities which had not been claimed by the newly established Jewish communities in Germany.

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Agreement has already been reached in about 150 of these cases. On the basis of these agreements about 50 properties will be returned to the JRSO and the JRSO will receive close to a million Deutsche Marks in lieu of restitution. About half a million marks have already been deposited in JRSO accounts as part payments for the amicable settlements reached thus far. 200,000 marks have been advanced to the AJDC, subject to the approval of the Board of Directors, to help cover their current relief needs in Germany. In addition agreement has been reached concerning approximately 200 properties which are in the hands of the Reich and which will be either returned or bought by the Ministers of Finance. It is known that no settlement is possible in about 100 cases negotiated by the JRSO and these are being prepared for the courts. Other negotiations are still in progress and now that work on unclaimed individual property has begun the efforts to reach amicable settlements will be sharply accelerated. It is planned to have at least the first negotiation completed within the next six months for every piece of real property claimed by the JRSO.

The Cultural Property Division of the JRSO as represented by the Jewish Cultural Reconstruction Inc. has recovered about 300,000 confiscated Jewish books from Military Government and these have been shipped to libraries throughout the world. In addition thousands of priceless silver ceremonial objects and torah scrolls have been recovered and removed from Germany. The JRSO received and shipped to the United States paintings having a value estimated at about \$75,000. \$7,000 were received for certain scrap silver recovered. About 80,000 Jewish books claimed by the JRSO under law 59 have recently been awarded and preparations for their shipment out of Germany have begun.

Until the file of every case is complete and has been analyzed it is impossible to determine with any degree of accuracy the value of the JRSO claims. A goal has been set of trying to acquire 5 million marks by the end of 1949, but it will be at least several months thereafter before it is known at what rate of speed the JRSO can really operate and what may be obtainable in the future.

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Special problems.1) Jewish Communities in Germany.

There are 115 pieces of former community property which have been claimed by both the JRSO and by the newly created Jewish communities in the U.S. Zone. The resolution of the JRSO Board of Directors that title to these properties go to the JRSO and that the communities receive the use of such properties as might be required to meet their religious, social, and budgetary needs has been rejected by the communities. At a meeting held at the beginning of September a counter-proposal was suggested whereby the communities would receive title to the basis properties required by them, such as a synagogus, community-house, old-age home and cemetery, and the balance would be under the control of a trust committee or company representing the communities, the AJDC, the JAMP and the London Council for the Protection of the Rights and Interests of Jews from Germany. This committee or company would make funds available from the income on the properties in order to pay the community expenses.

A committee has been formed to work out the details of the new suggestion as well as the exact requirements of the communities. As soon as a concrete counter-proposal has been formulated it will be submitted to the JRSO Board of Directors.

In short the problem with the communities may be a little nearer to solution but is not yet resolved.

2) Restitution Law for Berlin.

Since the last report a restitution law has been enacted for the Western sectors of Berlin. The law provides that a successor organization recognized in a zone may apply for recognition in the respective sector of Berlin and the JRSO accordingly applied for recognition as the successor organization for unclaimed Jewish property in the U.S. Sector. The JRSO application has received the final approval of the U.S. Commander for Berlin and a JRSO office will soon be opened in Berlin to repeat what has already been done in the U.S. Zone. Initial preparations are under way in order to make the completion of the new assignment speedy and efficient. One of the problems immediately to be faced concerns the handling of heirless property in the other sectors.

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3) The General Claims Law.

Since the last report a General Claims law has been enacted to compensate victims of persecution for imprisonment, damage to health, loss of economic opportunity and certain other losses including damages to possessions. Under the law the JRSO can claim compensation for damages to real estate recovered by the JRSO. As a practical matter this will probably be limited to the damages inflicted through the burning of synagogues in the November 1938 pogroms and will not exceed a few million marks. Since these claims have only second priority under the General Claims Law early payment is not anticipated.

4) Restitution Law for the British Zone.

A restitution law very similar to the American model was enacted to cover the British Zone. Under the law heirless property may be claimed by a German Trust Corporation which will be designated by Military Government. The British Foreign Office has indicated to the interested British Jewish groups that it is prepared to recognize a Jewish Trust Corporation for unclaimed Jewish property. The JRSO has sent memoranda and reports to the interested British Jewish organizations concerning the problems to be faced by such a Trust Corporation and suggestions for overcoming those problems. The JRSO has also indicated its willingness to be of every service possible and has offered its full cooperation upon requests of the British groups in helping to resolve the difficulties anticipated in the British Zone.

5) The Legal Aid Department.

For many months the United Restitution Office attempted to receive U.S. Military Government approval for the establishment of an agency to assist individual claimants in obtaining the return of their property in the U.S. Zone. Military Government finally refused but indicated that it would favorably consider such a request from the JRSO. Application was then made for a license permitting the JRSO to help indigent claimants on a non-profit basis. The U.R.O. had received about 2 000 individual cases almost all of which came from Israel. Pending the issuance of the license the JRSO set up the structure for the Legal Aid Department. The U.R.O. cases were taken over tentatively by Dr. Kurt May the Legal Consultant of the Jewish Agency. It is anticipated that the license will be forthcoming within the next 30 days and at that time Dr. May will become head of the Legal Aid Department and assume responsibility for the cases of individual claimants handled by that Department.

6) The Sale and Administration of JRSO Properties.

An agreement is about to be concluded with the Deutsche-Waren-Treuhand-Gesellschaft to have them take over, for a small fee, the administration and sale of properties acquired by the JRSO. This company enjoys an excellent

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reputation for honesty, integrity and ability. They protected Jewish interests during the Nazi period and have been strongly endorsed by the Warburg family with whom they were previously associated. They were the trustees responsible for transferring Jewish assets to Israel during the early years of the Hitler regime. The IRSO will maintain strict control of a separate subsidiary of this company and this subsidiary will deal exclusively with JRSO properties. It was felt that by these means the JRSO would be able to acquire experienced German property management and thereby realize a maximum from the properties recovered.

7) The Safe-Keeping Investment, and Transfer of JRSO Funds.

As long as the JRSO does not have a surplus of marks over and above its own administrative requirements and the requirements of approved Jewish relief agencies in Germany the problem concerning the effective use of JRSO funds does not arise. Preliminary discussions with German and U.S. occupation officials, however, indicate that the export of certain German commodities which can be paid for in restitution marks may be a possible solution. If Germany has a surplus which cannot be disposed of for hard currency the German officials will be very eager to sell them for the JRSO marks. The possible export in this manner of German pre-fabricated houses to help relieve the acute housing shortage in Israel is being intently studied. The German manufacturers and trade officials are prepared to conclude and urge Military Government approval for such an agreement. An Israel engineer and purchaser is presently completing a study on the suitability of the German pre-fabricated houses and he will make his recommendations to the JRSO.

There does not appear to be any early prospect for the free-transferability of German marks into other currencies.

A private company has been organized in Frankfurt under the name of Juedische Wiedergutmachungsbank (Jewish Restitution Bank) with the stated objective of working in close cooperation with the Jewish organizations in safe-keeping and making effective use of restitution funds. Since all of the shares of this company are held by a group of Jewish businessmen who have received a considerable amount of unfavorable press publicity and who are completely without banking experience, the JRSO has declined to be in any way associated with the enterprise.

Preliminary negotiations are being conducted to examine the possibility of having the established German Jewish banks set up a small group to serve as advisors or trustees for the safe-keeping, temporary investment or eventual transfer of JRSO funds. More detailed discussions on this subject will be held within the next 30 days.

Summary and Conclusion.

The JRSO has established an effective and efficient organization in the U.S. Zone. Although the carrying out of the restitution law has in general been very slow and the JRSO was required by law to wait until the claims of individuals were all filed and separated, agreements have been reached for the JRSO to receive restitution or compensation for about 950 pieces of property. Over half a million marks have been accepted by the JRSO as party payment for amicable settlements.

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The JRSO will claim damages amounting to a few million marks under the newly enacted General Claims Law and the JRSO was recognized as the successor organization for unclaimed Jewish property in the U.S. Sector of Berlin. Valuable collections of Jewish books, religious objects, and paintings have been recovered and removed from Germany.

The work itself is exceedingly complex, technical and difficult. The JRSO is dependent upon support from the occupation authorities and there is no way of knowing when that support will be withdrawn. The American attitude toward restitution appears to have grown increasingly apathetic and there is as yet no indication that the new High Commissioner will reverse the trend. To large extent the JRSO must depend upon the speed with which the German restitution officials and courts can or will operate. Acceleration on their side is urgently needed yet whether the occupation authorities will insist upon it remains to be seen. The steps which the new German government will take or urge in connection with the restitution program can hardly be expected to favor the JRSO.

The initial gains thus far achieved are not binding on the future. The hazards and problems which lie ahead remain momentous and are likely to increase. Despite these realities the JRSO is confident and determined that the program which it has undertaken can and will be successfully concluded.

BENJAMIN B. FERENCY
Director General

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Restitution

American Zone

November 17, 1948

Mr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York, N. Y.

Dear Eugene:

I have your memorandum of November 15, 1948 with respect to the filing period for restitution of claims in the United States zone of Germany. I have noted the cautionary statement at the bottom of your November 15 memorandum with respect to not risking "the creation of unfriendly attitudes in Washington by talking about this subject before we see how we stand with General Clay."

In view, however, of my very close relations with the Department of State and particularly with Neal Hemmendinger, whom I have known intimately for some twelve years, I ventured to call Hemmendinger and to find out informally what the situation was. I think that I can say positively that there is very little advantage to be gained by waiting for further word from General Clay. General Clay some short time ago sent to the Department of State a telegram in which he said that he has been considering the question of an extension of the filing period on the basis of numerous requests previously made to him and particularly in view of requests which were accumulating in the last few weeks. He noted the undesirability of leaving this matter in doubt and said that he therefore was making a firm decision here and now, so that there would be no "uncertainty" about the matter in the last few months of the filing period. His conclusion, as you might have suspected, was that no extension should be granted. The principal reasons which he adduced for this "firm decision" are:

1. That 13 months will have elapsed during which claims could have been filed;
2. That title to properties subject to restitution claims have been uncertain for the past three and a half years, and that it is desirable to clear up this situation as promptly as possible;
3. That granting of a request for an extension may lead to other requests for modification of the restitution law;

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4. That the French and the British zone situations provide no argument since the French law is entirely different from the U. S. zone law and since there is no restitution law in effect in the British zone; and

5. That it is desirable to get as many uncertainties in the German situation out of the way before the date of the occupation statute as is possible.

The attitude of the Department of State at present is that Article 58, sub-section 6 of the restitution law provides a sufficient loophole so that there is not a strong enough case to attempt to change Clay's mind on this point. That sub-section provides that "the period of limitation provided for in paragraph (b)(1) of this section shall be deemed to have been complied with by the filing of a written petition with the Central Filing Agency, although it is incomplete or in improper form." It is the thought of the State Department that this quoted provision will take care of many cases since it will mean that full and complete statements on claims need not be filed before the deadline, but that a document such as an affidavit setting forth the details of the claim as fully as possible and explaining the absence of such information or supporting data as is not attached would be sufficient under this provision. Mr. Hemmendinger assures me, in any case, that the Department would support such a liberal interpretation of this particular provision.

I am also informed that the State Department is asking that OMRUS construe the law so that claims which have already been informally filed under the predecessor of Law 59 would be considered as having been filed under Law 59 itself. The Department is getting out a telegram on these matters at the present time.

I raised with Hemmendinger the question of the claims of the Jewish Restitution Successor Organization. On this point he is much less certain. I think that it would be worthwhile for the representatives of the JRSO in Germany to check with General Clay's staff and find out whether a general notice of claim on their part will be sufficient under the provisions of Law 59. I would suspect that the answer would be no, but I feel that a clear-cut answer of this sort is probably going to be necessary in order to get the State Department to make strong recommendations on this matter to General Clay. I also have the impression from talking with Hemmendinger that the factual basis has not been very strongly presented to the State Department, particularly with respect to the claims of the JRSO. You will note that the arguments presented by General Clay are not particularly strong and that the State Department's attitude is based very largely on the theory that there has been no real demonstration of hardship in view of the quoted provision of Law 59. What it seems to me must be done, and done quickly, is to find out directly from General Clay whether the quoted provisions of Law 59 will be adequate and will be interpreted in the way suggested above, and whether they will permit the filing of a general claim by the JRSO. If the answer to either of these questions is no, then a factual demonstration of the impossibility of filing claims

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within the designated period must be made and a strong showing probably should be directed toward the White House and toward the Department of State. This latter recommendation of a strong showing is made because, although I do not feel that there will be any great hostility within the Department of State itself, the officials there will have to engage in a difficult exchange of cables or instructions with General Clay and their ability "to show a strong protest" by major groups in the United States will be helpful in building their case.

I am sending a copy of this letter directly to Max Isenbergh in the Paris office.

Sincerely yours,

Seymour J. Rubin

cc: Mr. Max Isenbergh

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- ① Report conversations with Francis
- ② Inclined to agree, in view of Gen'l Clay's attitude, because this does not seem to be worth overcoming his reluctance
- ③ About individual claims, it might be said attention is more necessary, but
 - ⓐ Rubin's reviews indicate it is less
 - ⓑ No way of canvassing situation

Recommendation: ① This should be settled in New York
② Ideally, I'd like to have been in Germany by now to give my impressions from there, but Egypt has prevented it.

If N.Y. decides on attention and feels my going to Germany will further it, I shall go there early in December. If not, I shall go to Vienna first, postponing ~~Germany~~ ~~and~~ ~~Germany~~ ~~and~~ ~~until~~ ~~after~~ ~~Autumn~~.

THE AMERICAN JEWISH COMMITTEE

YIVO RG. 347.7
ajc 9fad 41-46)
Box 31 File 7

MEMORANDUM

To Dr. John Slawson
From Joel D. Wolfsohn
Subject Restitution in Germany

Date October 17, 1947

STRICTLY CONFIDENTIAL

I have just returned from a visit of a week to Frankfurt and Berlin. In the course of my visit, the bulk of which is discussed in a separate report, I had a long chat with Judge Levinthal and one with Irving Mason.

Both informed me that as soon as General Clay returns from the United States it is likely that he will sign and promulgate a unilateral restitution decree.

As indicated in Hevesi's memorandum of October 3 to you, General Clay is unhappy about the whole matter. His advisers do not believe that it is sensible to have a law affecting only the American zone. They are not at all certain that the basic principles which it is proposed to write into this law are sound and, according to Judge Levinthal, they have informed General Clay that the principles established by such an act would be more than harmful.

Nonetheless, in view of General Clay's promise that he would promulgate such a decree, both Levinthal and Mason believe that he will do it on his return, which is scheduled for some time the latter part of the month.

Mason gave me a copy of the latest draft of the act and I understand that copies have been sent to the organizations in New York.

It is still possible, of course, that there may be a slip or a further delay, but the view that both Levinthal and Mason shared was that Clay would sign before the first of November.

JDW:H

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October 3, 1947

TO: Dr. Slawson

FROM: Dr. Hevesi

RE: Restitution in Germany (Strictly Confidential)

OCT 10 1947

On September 29, two contradictory reports reached the five organizations from Germany on the present status of the restitution issue in Germany.

A cablegram received from Judge Lewinthal reported from Nuremberg that since the effort of reaching inter-Allied agreement by October 1 "seemed hopeless," General Clay reluctantly, and against his better judgment, promised unilateral enactment in the U. S. Zone. He expressed the opinion that public opinion in the United States will not "support the Jewish position on points of difference." With regard to these apprehensions, the cable alluded to the need that "enthusiastic favorable reaction follow the announcement" of the one-sided enactment. Our justified assumption was that unilateral enactment meant the enactment of the American draft approved by us.

A few hours later, Mr. Irving Mason reported over the phone from Berlin, on the basis of an interview with General Clay, held on September 27. The initial part of Mason's report tallies, as far as the General's "reluctant willingness" to enact goes, with Judge Levinthal's message, but subsequently the report makes it clear that by the 29th no final actual decision to enact unilaterally had been taken. On the contrary, the General declared to Mason that for Monday, September 29, a meeting was scheduled with the British authorities on the possibility of a bi-zonal solution, and that the General would take a final decision in accordance with the outcome of that U.S.-British meeting.

The turning point is revealed by Mason's news on this joint meeting. At the meeting, according to Mason, agreement was reached with the British finance director on all issues involved, with the sole exception of the heirless property successor organization which the British want to create in Germany, presumably within German jurisdiction, in a manner that each zone commander would be entitled to select the membership of the organization for his own zone. (The effect of this condition would be that the Jewish Restitution Commission will not be recognized by the British for their zone.)

With regard to the question of avoidance, the following compromise had been reached at the meeting: There would be absolute power of avoidance with respect to transactions entered into after the enactment of the Nuremberg Laws in 1935. Prior transactions would be subject only to the presumption of duress, rebuttable by proof to the effect that a fair purchase price had been paid. The agreement provided also that everything received by the seller must be paid back in full prior to restitution.

Apart from these gravely unfavorable features of this bi-zonal agreement, there is the overall fact that the negotiations with the British have not been conducted on the basis of the American draft approved by us but on the basis

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of another, later draft submitted to the Four Powers which is almost entirely unknown to us, and which Mr. Mason describes as being "badly drawn in many respects and will have to be implemented by regulations to be issued by the United States and British authorities. "This may mean that the entire policy in the British Zone would be contingent upon British regulations, not upon the agreed law.

It is obvious, therefore, that in the last moment, on September 29, we have been placed into the position of being well-nigh compelled to acquiesce in the loss of a good United States zonal law, and to put up with a grossly unsatisfactory bi-zonal law, just because approximate "agreement on principle" on such a law has been reached at the sacrifice of important Jewish rights and interests. Mr. Mason himself felt that in view of the fact that the British are ready to agree in principle to a draft law, it would be very difficult to insist upon unilateral enactment in the United States Zone alone.

On October 2, the five organizations met to take a position on this grave development. The American Jewish Committee was represented by Professor Gray, Simon Segal and Eugene Hevesi. In the course of lengthy discussions, Colonel Bernstein of the American Jewish Conference assumed the position that nothing can and should be done in this situation, and notably that our insistence on unilateral enactment should be abandoned. All other participants, including Mr. Grossman of the American Jewish Conference, felt that with regard to the impossibility for the five organizations to assume responsibility for a bi-zonal/manifestly inferior to minimum requirements, and violative of *Law* Jewish interests, no such capitulation can be envisaged.

As a compromise, it was decided not to insist directly upon the General's commitment to unilateral enactment of the good United States law, but to cable Judge Lewinthal the following interim suggestion:

"In View information furnished by cable of September 29, and Mason's subsequent telephone conversation, we are most anxious to receive full information as to present status of negotiations on bilateral law, copy of proposed bilateral law, with view to discussing entire matter with General Clay when he arrives in U.S., and in hope General Clay will make no decision in favor of bilateral law before we have opportunity to discuss matter with him on basis of information requested stop. However, if he is about to issue satisfactory U.S. zone law, we are ready to support it enthusiastically."

With regard to the need of further exploration of the situation, the JDC was invited to get in touch with Mr. Mason once more over the telephone for additional information.

As matters stand today, only a thorough discussion of the situation between the leadership of the five organizations and General Clay may have some chance to obtain the correction of at least the most flagrant shortcomings of the proposed bi-partite solution. In case of some success in this direction, an at least tolerable bi-zonal law could be obtained which

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the French may subsequently accept. If so, a more or less uniform legislation would apply at least to the Western zones which to some extent would recognize the Jewish claim on heirless property, while most probably substituting some Allied agency or agencies for the Jewish Restitution Commission. A tri-partite law of this nature would cover some 55-60% of Jewish property in Germany. Another 30% is in Berlin, and further 10-15% in the rest of the Soviet Zone. Disposal of the Berlin heirless assets for Jewish purposes is subject to Russian assent which, in view of the Soviet insistence on escheat to the German Laender, is most unlikely to be forthcoming.

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STRICTLY CONFIDENTIAL

YIVO RG 347.7
AJC (FAD 41-46)
Box 31
File 7

OCT 17 1947

Dr. Slawson

October 9, 1947

Dr. Hovari

The impending meeting between Gen. Clay and the five Jewish organizations

1. Antecedents

In February 1947, the Jewish organizations accepted the suggestion of the U.S. authorities that the enactment of the draft restitution law for the U.S. Zone in Germany be postponed by 60 days so as to give Gen. Clay an opportunity to achieve full inter-Allied (quadrupartite) agreement on restitution in all Germany. The acquiescence of the Jewish organizations in this further delay was due to the insistence of the authorities upon avoiding unilateral action unwelcome to the other Allied powers, and also to the consideration that only some 20% of the confiscated Jewish property is located in the U.S. Zone (an estimated 30% is in the British Zone, 35% in Berlin, and the rest in the French and Soviet Zones.)

In conjunction with this agreement, Gen. Clay expressly committed himself to proceed with the unilateral enactment of the zonal law if by the end of the 60 days' period no prospect for quadrupartite enactment of a uniform restitution law for all Germany materialized.

After more than a 120 days (instead of 60) went by without any progress in inter-Allied discussions, on August 8, 1947, Gen. Hilldring, then Assistant Secretary of State for Occupied Areas, invited the five organizations to agree to another delay until October 1, 1947, during which a final effort to reach quadrupartite agreement would be made by Gen. Clay. The Jewish organizations accepted this postponement with great reluctance, and only under the condition that October 1, 1947 was expressly recognized as the final target date either for quadrilateral agreement, or, as desired by the Jewish organizations, for independent enactment in the U.S. Zone of the draft law worked out in agreement with them. This zonal draft law was, with the exception of some features, subject to enactment by supplementary U.S. executive decree, approved also by the German Laenderrat for the U.S. Zone.

By insisting upon one-sided enactment in the U.S. Zone alone, they may have jeopardized, at least to some extent and for some time, the fate of 80% of Jewish property domiciled outside of the U.S. Zone. By abandoning altogether their insistence upon unilateral U.S. zonal action, they would have signed a carte blanche, enabling the four powers to negotiate an entirely new statute, without an opportunity for the five Jewish organizations to have some influence upon its formulation, but with ample opportunity for the official negotiators to inject into the law provisions reflecting the growing trend of supporting German as against Jewish interests.

In this race for German friendship the Soviet Union has been and still is the pacesetter by its insistence upon the excheat of all heirless property to the German Laender, and its refusal to recognize the power of victims of persecution

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From Dr. Hevesi

to avoid transactions entered into by them under a general state of duress. They insist on full proof of direct duress in every individual case. The French position has not been very far from that of the Soviets. Until the end of July, the British authorities indicated unwillingness to accept most of the basic provisions of the American draft law. In August, however, under the effect of their difficulties in Palestine, they suddenly cancelled their agreement. This was the situation in August, at the moment the October 1, target date was agreed upon.

On September 29, the five organizations received word from Judge Lewinthal that the efforts to reach inter-Allied agreement (even with the British) "seemed hopeless," and that, therefore, Gen. Clay, "reluctantly and against his better judgment" promised Judge Lewinthal "unilateral enactment in the U.S. Zone" alone.

On the same day, a few hours later, Mr. Mason reported from Berlin that this was not so because at a last minute U.S. - British meeting agreement was reached with the British on all issues connected with a bi-lateral law, with the exception of the question of the successor organization for heirless, unclaimed and communal property which the British wanted to have created within German jurisdiction, and in a manner permitting each Zone Commander to constitute the agency according to his free will in his own zone. Agreement on this point would have meant the elimination of the Jewish Restitution Commission.

While it seems that the U.S. negotiators did not yield to this British demand, they did definitely yield to the second major British condition, namely the limitation of the power of avoidance of persecutee claimants to transactions entered into after the enactment of the Nuremberg Laws in 1935. As a result, transactions made between 1933 and 1935 would not be protected by the power of avoidance.

The most important set-back was represented, however, by the fact that the U.S. - British negotiations had not been conducted on the basis of the U.S. zonal law but on the basis of a new draft, unknown to the Jewish organizations, and prepared for use in the previous quadripartite negotiations. According to Mr. Mason, it is "badly drawn in many respects, and will have to be implemented in many ways." It is obvious that final U.S. - British agreement on such a basis would have meant a grossly unsatisfactory solution from the Jewish point of view.

Fortunately, on October 1, the British informed Gen. Clay that they could not, on their part, give final clearance to this bi-zonal law in less than three weeks. Gen. Clay thereupon declared that he would not wait any longer and that the unilateral U.S. law would be promulgated. At the same time, he overruled the insistence of Mr. Ball, head of the U.S. Finance Division in Germany, that the U.S. - British bi-zonal draft serve as basis for the U.S. zonal law, instead of the original American draft as approved by the Landerrat. He approved, however, of the inclusion of the shifting of the starting date of the power of avoidance from 1933 to 1935. He also accepted Mr. Ball's suggestion that the Landerrat should be asked whether it was prepared to enact immediately the draft approved by them as a German law, with the understanding that in the negative case a military government law will be issued.

As matters stand today, it may be said that inspite of his manifest preference for a quadripartite solution which would have exempted the U.S. from the effect of certain political complications in Germany and with the other Allies,

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Memo to Dr. Slawson
From Dr. Hevesi

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AJC (FAD 41-46)
Box 31 File 7

Gen. Clay, in the end, took the decision which is favourable to Jewish interests. It is obvious that a satisfactory law in the U.S. Zone represents a level below which at least the British cannot go too far in their own decisions.

2. Problems of Implementation to be Discussed with Gen. Clay

a. The designation of the Jewish Restitution Commission as a successor organization.

This objective must be achieved in the course of the interview with the General. It is also desirable to request that the order designating the Jewish Restitution Commission provide for its attachment to the Army (with the necessary facilities for functioning assured), and for its access to all documents bearing on restitution. Mr. Mason suggests, furthermore, that under military laws a general license be given the Jewish Restitution Commission authorizing it to receive the assignment of, and to prosecute, claims of living claimants, automatically freeing from property control properties restituted under the law. (This suggestion is motivated by Mr. Ball's intent to include in the final text a proviso banning assignments to the successor organization for heirless property. Mr. Ball is invariably and viciously opposed to the recognition of the Jewish successor organization, and this point of view of his is represented by Mr. Bennett who has accompanied the General to the U.S., and who is his chief advisor here on these matters. These gentlemen are advocating a non-denominational organization. Their opposition to assignments is motivated by the baseless argument that the Jewish Restitution Commission would buy up thousands of claims from refugees. (This would mean that the JDC would give dollars for frozen marks!/) All this seems to indicate the need of the suggested licensing. It may be indicated also to point out to the General the unfriendly attitude of the Finance Division.

b. Refund of consideration received by claimants of restitution.

Mr. Ball's position is that the final law should provide that considerations received by persecutee sellers in hard currencies should be paid back in dollars to the holders of property. Since the General may be inclined to accept this proposal under the prompting of his ambition of easing the financial burden of the U.S. in Germany, it will be necessary to convince him that this would frustrate restitution, and to win him over to the position that the refund be made exclusively in marks gained from the claimants' own unblocked funds or through the clearing fund.

c. Central filing agency.

Such an agency should be set up for the filing restitution claims. The Jewish successor organization should be authorized to keep tabs of the registered claims.

d. Regulation of claims filed by others than the original persecutee.

These claimants (testamentary heirs, interstate successors or assignees) should be held to furnish full proof of their title. This is all the more important as, upon Mr. Ball's insistence there will be no limitation to the right of inheritance at any

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Memo to Dr. Slawson
From Dr. Hevesi

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degree of succession, a circumstance which will drastically reduce the scope of heirless property.

e. Jurisdiction.

In accordance with Gen. Clay's promise made to the Jewish organizations in November, 1946, a U.S. Board of Review should be established in the League Division of the Military Government. It should appoint Proctors for the effective supervision of the German Restitution Authorities.

In the Restitution Chambers, the persecutee judge should be selected from the same group of victims to which the claimant belonged.

These are the major points to be discussed with the General. The list may be extended, while some points may be omitted for later presentation. The technicians of the five organizations are in process of preparing the necessary memoranda, and of devising the strategy of discussion. It is deemed necessary that before the meeting with the General on Tuesday or Wednesday afternoon (October 14 or 15) in Washington, the leaders of the five organizations meet with the technical group for discussing the procedure.

The Laenderrat's answer to the invitation to enact the zonal law may be so delayed as to coincide with the time of the now extant British clearance of the bad-bi-zonal draft. In this way, the undesirable bi-zonal solution may re-emerge. It would be desirable to make sure with the General that there will be no more deviation from his latest decision to act unilaterally.

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~~CONFIDENTIAL~~
~~SECRET~~

YIVO 347.7
AJC (FAD 41-46)
Box 31 File 7

THE AMERICAN JEWISH COMMITTEE
386 FOURTH AVENUE NEW YORK 16, N. Y.

95

September 3, 1947

Dr. Slawson

Eugene Hevesi

Meeting with General Hilldring on Restitution in Germany

Early this year, an agreement came about between the United States authorities and the Jewish organizations to the effect that a delay of 60 days would be given General Clay to achieve quadripartite agreement on restitution in Germany, with the express commitment undertaken by the Area Commander to proceed with the one-sided enactment of the draft law in the United States, ^{zone} if by the end of the 60 days, no prospect for quadripartite agreement existed.

Since then, not 60 but 150 days went by, and there is no prospect whatsoever, for quadripartite agreement. Even the British, who, on principle, had already accepted the American draft law, changed their position by denying any financial assistance to Jews, which may help Palestine. The French insist that the successor organization for heirless and communal property should not be a Jewish but a non-sectarian, international organization. And the Russians intend to hand over heirless property to the German ^{Ac}acnder in their zone.

With regard to this deadlock, both General Hilldring and the Jewish organizations felt the need of a direct exchange of views on the situation. The meeting took place at the Department of State on August 8. Both General Hilldring and his successor, General Salzman, and six members of their staff attended. The AJC was represented by Professor Herman A. Gray and Eugene Hevesi.

The objective pursued by General Hilldring was to convince the Jewish organizations that it would be dangerous from the point of view of Jewish interests to proceed with the enactment of a law in the U.S. zone alone without reaching an agreement with the three other governments represented on the Control Council. Unilateral action by the U.S. would offend these partners to such an extent that some 80% of Jewish property — which is outside the U.S. zone — would be in jeopardy. He asked us whether we were willing to risk this property by insisting on a U.S. zonal law now.

The composite sense of our counter-arguments was the following:

1. Enactment in the U.S. zone would, at last, break the ice and serve as a model for the other zones. It is fair to assume that the British and the French would, in the end, recognize the right of the Jews to their property.
2. Delays have, and will continue to offer opportunities for whittling down more and more the accepted provisions of the U.S. draft law. The principles involved must finally obtain recognition, and the only medium for this is the zonal law.

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3. The longer actual restitution is delayed, the more difficult it will become to establish claims and get satisfaction.

In view of our united stand for immediate enactment in the U.S. zone, Gen. Hildring finally suggested that Col. Bernstein, on behalf of the Jewish organizations, and Mr. Fritz Oppenheimer of his own staff, work out some mutually satisfactory agreement. As a result of these discussions in which Col. Bernstein was closely and continually advised by representatives of the five organizations, the attached draft cable instructions to Gen. Clay were finally agreed upon as a compromise. This formula contains two concessions made (reluctantly) by the Jewish organizations.

The first is our agreement to a further delay, until October 1, which is, however, recognized as a final target date for enactment in the American zone. The Jewish organizations generally believe that no quadripartite agreement can be achieved by that date. In the event Gen. Clay's quadripartite efforts fail, I suggest that on October 1 we insist upon immediate enactment in the U.S. zone, and, if necessary, upon public discussion of the matter by the five organizations.

The second concession, a risky one, is the following: Should a quadrilateral agreement, contrary to our expectations, come about on the basis of these instructions, by October 1, we shall have no Jewish Restitution Commission, and not even an "international" non-Jewish organization taking care of heirless property (as, for instance, IRO), but an Allied Control Council Agency in which all the complications of inter-allied relations, the veto, unilateral, arbitrary decisions, etc. will be likely to bedevil the interests devoted to the restitution of heirless and communal property.

EH:dk

cc: Dr. Segal
Paris Office✓

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DRAFT CABLE FROM WAR TO OMGUS

SUGGESTED BY THE JEWISH ORGANIZATIONS

WE CONTINUE TO BELIEVE THAT A SATISFACTORY FOUR PARTY RESTITUTION LAW HIGHLY DESIRABLE IN INTEREST OF COOPERATIVE ACTION OF FOUR POWERS AND OF EFFECTIVELY UNDOING WRONG COMMITTED BY NAZIS BUT PARTICULARLY SINCE ACCORDING TO INFORMATION AVAILABLE HERE RESTITUTABLE PROPERTY IS MAINLY IN BRITISH ZONE AND IN BERLIN. WE ATTACH GREAT IMPORTANCE TO ATTAINING FULL AGREEMENT AT LEAST WITH GREAT BRITAIN ON SATISFACTORY RESTITUTION LAW. ON OTHER HAND IT IS REALIZED ENACTMENT LAW CANT BE POSTPONED INDEFINITELY. WE PROPOSE TARGET DATE FOR DEFINITE DECISION NOT LATER THAN END OF SEPTEMBER ON PROPOSAL HEREAFTER MADE. IF BY THIS DATE NO AGREEMENT REACHED IN CONTROL COUNCIL NOR WITH BRITISH OR FRENCH, APPROVE PROMULGATION MILITARY GOVERNMENT LAW IN U.S. ZONE ON OCTOBER FIRST.

SEEK TO OBTAIN QUADRIPARTITE AGREEMENT TO ESTABLISHMENT OF AN ALLIED CONTROL COUNCIL AGENCY COMPARABLE TO GERMAN EXTERNAL PROPERTY COMMISSION UNDER ARTICLE ONE CONTROL COUNCIL LAW #5 WHICH WILL TAKE OVER HEIRLESS PROPERTY AND PROPERTY OF SUBSTANTIALLY DESTROYED COMMUNAL ORGANIZATIONS; WITH DEFINITE UNDERSTANDING THAT THIS CONTROL COUNCIL AGENCY WILL TURN OVER TO A REPRESENTATIVE JEWISH RESTITUTION COMMISSION TO BE APPROVED BY THE ALLIED MILITARY GOVERNORS FOR THEIR RESPECTIVE ZONES, ALL HEIRLESS AND COMMUNAL PROPERTY WHICH BELONGED TO JEWS AND JEWISH ORGANIZATIONS. IF YOU CANNOT OBTAIN QUADRIPARTITE APPROVAL TO THIS PROPOSAL TRY TO OBTAIN BRITISH AND FRENCH OR AT LEAST BRITISH ACCEPTANCE OF THIS PROPOSAL. IF NO SUCH ACCEPTANCE IS OBTAINED BY THE END OF SEPTEMBER, YOU ARE AUTHORIZED TO ISSUE SATISFACTORY MILITARY GOVERNMENT LAW IN U.S. ZONE ON OCTOBER FIRST.

HAVE EXPLAINED FOREGOING POSITION TO REPRESENTATIVE JEWISH ORGANIZATIONS WHO HOWEVER PREFER ISSUANCE NOW U.S. ZONE SUBSTANTIALLY PRESENT DRAFT U.S. LAW TO CONTINUING QUADRIPARTITE NEGOTIATIONS NOW. THEY HOPE BRITISH AND FRENCH WILL FOLLOW OUR EXAMPLE AND ENACT SIMILAR LAWS IN THEIR ZONES. THEREAFTER THEY HOPE THAT RUSSIA WILL BE

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APPROACHED ON MATTER PARTICULARLY WITH RESPECT TO BERLIN. BUT IT IS FELT THAT
THEY WILL NOT OPENLY OBJECT TO ABOVE DESCRIBED EFFORT BEING MADE FOR LAW IN
MORE THAN ONE ZONE PROVIDED THEY ARE ASSURED THAT SATISFACTORY RESTITUTION
LAW IS IN EFFECT ON OCTOBER FIRST AT LEAST IN U.S. ZONE.

340593

July 1947

Currency Questions Involved in Refunds by Claimants

The proposed law makes extensive and laudable provision for facilitating the payment of refunds by claimants. (e.g. Sec's. 42-44). We wish to express our hearty endorsement of the spirit expressed in these provisions, especially insofar as they seek to avoid or minimize the possible requirement of refunds in a foreign exchange. The law, being a German law, however, is by necessity silent on the question of the method of payment by a claimant where, in spite of the protection afforded by the above sections, he is still left with a balance to pay.

To avoid future confusion and misunderstanding on this score we wish to point out the inequity of requiring payment of the balance of any part of the refund in foreign exchange.

1. Any requirement of a payment back in foreign currency would impose unjustified hardship on would-be claimants, most of whom left Germany with harshly restricted assets which have been even further depleted by the drain of immigration and readjustment costs in the intervening years. To prohibit these claimants, many of them elderly individuals, from such remedies as using blocked mark accounts, which happen to be unrelated to the particular property sought (Sec. 42/31/), and to require them to pay foreign currency into an asset which is doubtfully realizable at a very uncertain future, would in most instances, render the law a nullity.

2. The necessary marks to accomplish refund are readily available to all claimants, either from their independent blocked accounts or from the future proceeds obtainable under a final Indemnification Law (the delay in the enactment of which should not be used to penalize these claimants) and from such sources as independent law suits which they will have against individuals and organizations still in Germany today. It is submitted that the balance as to whether a claimant owes any money to Germany as a whole cannot be struck before all these claims have been adjudicated.

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3. In view of the above potential sources of marks, there need be no incentive for illegal trading by outsiders in obtaining marks.

4. It cannot be argued either that it would be inequitable to permit the payment of the refund in depreciated marks. Payment in foreign exchange would not benefit the restitutor since he will receive his payment in German marks in any event. The argument that ~~for~~ the claimant would be unjustly enriched if he were permitted to make payment in marks--if it ^{ever} ~~either~~ had any value--lost all of its persuasiveness with the enactment of Amendment No. 1 to Military Government Law No. 51 permitting all German debtors to repay their pre-war mark debts with depreciated marks. It would seem difficult to understand why persecutees should be denied the same privilege.

5. It thus becomes obvious that the sole result of a requirement to make payment in foreign currency would be the building up of a pool of foreign exchange, and it is submitted that this cannot be the true purpose of the Restitution Law ~~which should not be made to serve such a purpose.~~

6. Lastly, for the relatively few claimants who were able to take substantial sums out of Germany, and who may be pointed to as justifying a requirement for payment in foreign exchange, it may be answered, first, that this group is unfortunately completely unrepresentative of that vast majority of emigrants whose situations border on poverty, that in any event tax laws of the countries of entry reflect the entire extent to which such countries have decided to "penalize" wealth and, thirdly, that most of these individuals would fail of restitution because the date of their departures preceded 1935.

Summer, 1947

340595

April 1947

STRICTLY CONFIDENTIAL

COMPLICATIONS IN CONNECTION WITH THE
ENACTMENT OF THE RESTITUTION LAW IN THE
U.S.-OCCUPIED ZONE OF GERMANY

In the middle of March 1947, representatives of the five Jewish organizations were assured by the head of the Legal Division of OMGUS that in case the German Laenderrat refused to enact as a German law the final bill for the Restitution Law for the American zone, the law will be promulgated in the form of a military government decree within two months at the highest. Subsequently, State Department officials confirmed the validity of this position.

In the meantime, in the economic branches of the U.S. military government, strong opposition had developed to the enactment of a one-zone law. This attitude is one of the consequences of the plan of economic and administrative coordination of the British, American and possibly the French zones the realization of which has been fostered by the failure of the Moscow Conference in re-establishing economic unity in all Germany. The intent of promoting German economic recovery over and above any other consideration, and the British and American determination to increase the "political responsibility" of German authorities in their zones constitute the background of this change of attitude.

Early in April, the five Jewish organizations came to know that all military government branches, except the Legal Division, had taken a stand against the U.S. zone law and united in advocating a quadripartite, or at least a tri-partite (Wester German) law. There were rumors to the effect that tentatively the British military authorities were willing to negotiate along these lines. It was know, however, that General Clay himself remained

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inclined to enact the one-zone law, if necessary by military decree.

A few days later, the military authorities went a step further in suggesting to Washington that the enactment of the zonal bill be delayed for a period of 30 to 60 days, for the purpose of conducting negotiations on a bi- or tri-partite basis. Realizing the certainty and danger of much longer delays, and sensing the likelihood that in the multi-partite process, Jewish interests would be given even less consideration than obtained in the form of the present zone bill, the Jewish organizations objected to the delay. They rejected even the suggestion that the delay be accepted only on the firm advance commitment that if, at the end of 60 days, no certainty of quick agreement on a bi- or tri-partite basis could be secured, the original plan would be immediately implemented.

Our fears were borne out by subsequent events. On April 12, the Jewish organizations learned that the 60 days' delay would be used not only for negotiations with the British, but also for finding out the final and precise conditions and amendments to the bill under which the German Laender in the U.S. zone would be willing to enact a restitution law. Recent political developments in the international and in the German scene do not permit any doubt that a statute acceptable to the Germans today would fundamentally digress from the existing bill.

Without consulting the Jewish organizations, the Department of State agreed to this change and then put the finishing touch upon this series of compromises by ruling that the enactment of the zonal law by military decree was impermissible. This ruling was already "informally" communicated with Mr. Heath in Berlin who, in the absence of Ambassador Murphy, is acting as political advisor to General Clay. (As far as we know, these decisions did

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emanate from General Hilldring's department, but from another division of the Department of State.)

The significance of these changes is manifest. If kept in validity, they can only mean two things. Either the multi-partite line will be followed, in which case dealy will follow delay, until after years of haggling, a watered down statute will emerge, bearing all marks of the special political interests of all parties involved, and constituting a compromise at the expense of the weakest element, the Jew. Or again, a German law will come about in the U.S. zone alone either dictated by the Germans, or representing, at best, a weak compromise with them.

The situation is further complicated by the fact that the German Jewish leadership in Germany seems to be frightened into submission to the German authorities, and that the Council for the Protection of the Rights and Interests of Jews from German (London) has taken a stand against the U.S.-zone law, and for a bi- or tri-partite statute.

A meeting held by the five organizations on April 17, unanimously agreed that a most detrimental last stand must be taken against the planned scuttling of the U.S. zonal law. The meeting decided to urge the top leadership of the five organizations to send as soon as possible a joint five-men top level delegation to Washington, to attempt to save the zonal law, and to secure its enactment in its present agreed form, if necessary, through military decree. The meeting agreed that consultation with General Hilldring in the Department of State, and with Secretary Patterson will be necessary.

April 18, 1947
EH:mj

340598

MEMORANDUM

YIVO RG 347.94 67
AJC (FAD 41-46)
Box 31 File 7

To: Mr. Mason

Subject: Board of Review

The following contains a few ideas we have on the Board of Review. We do not want to go too deeply into details since many of these problems may be solved one way or the other.

The powers which we would like to see the Board endowed with depend on its composition: if it consists of independent judges its competence should be broad; should it, however, be composed of AMG officials we would not want it to be granted too many functions.

1. In drafting the provisions governing the activities of the Board of Review due consideration should be given to the fact that the Board was created at the request and recommendation of the Jewish organizations and as a protection against misuse of the law by German judges in regard to Jewish claimants.
2. The Board shall consist of U.S., U.N. or neutral nationals who have no other functions with M.G. There shall be consultants on German law attached to the Board.
3. The Board shall have the power to hear appeals from the decisions of the Restitution Chambers and Oberlandesgerichte as to fact and law. Appeals from decisions of the Restitution Chamber shall be permitted only upon certification by: (a) the proctor, or (b) a member of the Board of Review.
4. If hearing on a decision of a Restitution Chamber is refused, the petitioner may file an appeal to the

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Oberlandesgericht within one (or three) month(s) from the notice of refusal.

5. Appeals from decisions of the Oberlandesgericht may be taken within six months from the notice of decision. The appealed decision shall not be considered final until the expiration of this period.
6. The decisions of the Board of Review shall be supported by an opinion. Those refusing to review a case shall be supported by a memorandum.
7. The Review of a case shall be based, insofar as practicable on a hearing of the interested parties, unless they waive it.
8. The Board of Review may either affirm the decision appealed from or remit it to lower court or make its own decision on the merit of the case.
The decisions of the Board are executable at once.
9. In cases of undue delays in proceedings before Restitution Authorities, a complain may be lodged with the Board of Review.
10. The Board shall have the power to issue General Rulings interpreting the law. These General Rulings shall have a binding effect on the Restitution Authorities.
General Rulings may be issued incidentally to a case brought before it; on the own volition of the Board, as an interpretation of the law; at the request of OMGUS, the Jewish Restitution Commission or the Restitution Authorities.
11. Any person who was admitted to the bar and was not

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disbarred for reason of moral turpitude shall be authorized to practice before the Board of Review.

12. The Board shall appoint as many proctors as may appear necessary to supervise the activities of the Restitution Chambers and of the Oberlandesgerichte. The proctors shall report to the Board of Review instances which call for remedial action. In suitable cases the Board may, in addition to its regular powers transmit the complains and reports to the appropriate M.G. or German authorities.

Jewish Restitution

Journal

**Resolutions
of the meeting held on October 30, 1946,
by the organizations constituting the Jewish
Restitution Commission.**

**(The American Jewish Committee was represented
by Professor Herman Gray and Eugene Hevesi.)**

1. The unsatisfactory Section 3 of the United States draft

Having heard from Berlin that General Clay will not issue any clarifying interpretation to this disputed Section, the meeting decided to have it further explored which version will be incorporated in the law unchanged: the earlier damaging version, or the somewhat improved re-draft by the Legal Division?

2. The appointment of the Jewish Restitution Commission

A draft letter to the Department of State asking for the recognition and appointment of the Jewish Restitution Commission as a successor organization was submitted to the meeting for approval by the Joint Distribution Committee. Professor Baron on behalf of the Jewish Cultural Reconstruction Commission submitted a different draft version which would ask for immediate admittance of a Jewish delegation to take over cultural property in Germany. The meeting felt that this issue should be brought up only after the Restitution Commission is recognized. It was agreed, however, to include in the JDC version a paragraph more clearly indicating the purpose of the Cultural Reconstruction Commission as an operating organ of the Restitution Commission.

3. British plans for restitution in Germany

At our suggestion, the meeting decided to invite the British-Jewish organizations to explore the plans of the British government with regard to restitution in their zone. It may be necessary to organize action to prevent the alleged British plan to exclude from restitution all non-German citizens.

4. Publicity in connection with the enactment of the US restitution law

With regard to General Clay's apprehension that the enactment will elicit unfavorable comment in the US, the meeting decided that with the participation of publicity experts of the organizations a thorough plan of joint publicity action should be worked out with great speed and efficiency, under strict exclusion of separate publicity by the various agencies. Together with Mr. Max Lowenthal, our representatives stressed that for practical purposes, it is more important to have favorable general than Jewish press comment. The first meeting with the publicity experts will be held on Monday, November 3, 4:00 PM at the American Jewish Conference. It was found desirable that a member of the lay leadership of each organization should be invited to attend.

cc. London, Paris, Dr. Gray, Dr. Slawson

340602

C O P Y

APR 23 1950

(GEN= General)
Box 295 File 1

From: Eli Rock

April 20th, 1950

To: Moses A. Leavitt

Re: Conversation with Dr. Robinson regarding proposed Israeli demarche
heirless property Switzerland

This morning I had a lengthy conversation with Dr. Robinson on the above question. Dr. Robinson was in general unfavorably disposed towards the proposal forwarded to us by Dr. Schwartz; his views might be summarized as follows:

1) Thus far two separate approaches have been used on this whole question-- the first under the Five-Power Agreement and the second on purely humanitarian grounds. The new proposal will represent still a third approach and may complicate and weaken the over-all Jewish position on this question.

2) It is not certain that everything possible has been done by way of getting the State Department to press the Swiss under the Five-Power agreement. For example, at the time of the recent flurry over the Swiss-Polish accord, the Jewish organizations in this country definitely held back in their approach to State for fear of weakening our case in connection with the 17 million Swiss Francs due under reparations. Furthermore, there is a general U.S. interest in the German funds in Switzerland, quite apart from the funds marked for Jewish purposes, and much more political pressure would be brought on the State Department by way of pressing them to press the Swiss harder. Particularly in these times when Congress is economy minded and concerned about the various overseas spending, Congress might be directly alerted to the large sums which are still being "improperly" held by the Swiss and which could potentially be turned over not only to the U.S. but also to other countries now receiving financial assistance from the U.S. under the ECA. Also, the U.S. is itself scrupulously planning to take over virtually every penny of German assets in this country, and our government should certainly, in all political consistency, press the Swiss harder to turn over what they have. Finally, the Swiss economy is very dependent on U.S. business and good-will, and an outspoken political and public campaign which would really point up the dilatory and generally reprehensible pattern of Swiss behavior on this whole question might well affect the Swiss attitude more than all the diplomatic representations; such a campaign has never been launched in the U.S. In short, our "best bet" still lies in U.S. action under the Five-Power agreement, we have never really used our full ammunition, and we should think twice before turning our back on that approach completely.

3) Another question (and this point had also been mentioned by Dr. Hevesi) arises in connection with our proposed amendment to Section 32 of the Trading with

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the Enemy Act which still has a good chance of passing. Should the latter happen, we would be in a much better position to approach the Swiss (as well as other European countries) under the Five-Power agreement.

4) The approach now suggested by Dr. Schwartz would in fact probably be irrevocable. The news of it will clearly leak out and it would be very difficult indeed for the Jewish organizations to approach the State Department again at some future date with the request that they proceed anew under the Five Power agreement.

5) In the light of all of the above, Dr. Robinson suggests that there be a delay of about four weeks before the Israelis proceed. During that interval, it could be ascertained whether the amendment to Section 32 will pass and also during that time new pressure might be put on the State Department through members of the House or Senate Appropriations Committee, etc. to really bear down on the Swiss as regards all German property in Switzerland. Dr. Robinson points out that a short additional delay will not harm the Israeli approach in the least and may on the other hand have valuable consequences in the end for the Jewish organizations.

ER:AU

340604

October 7, 1949

Mr. Adrian Fisher
Legal Adviser
Department of State
Washington, D.C.

Dear Mr. Fisher:

It is my understanding that a memorandum of understanding between the United States and Switzerland on the subject of intercustodial problems has been initialed by representatives of the United States and Switzerland.

I am informed by the Office of Alien Property that the situation with respect to publication of this document is that specific questions may be answered on the basis of it, but that the document as a whole is still regarded as restricted. I am further informed that the suggestion has been made by the Office of Alien Property that the document be made available to the public.

My particular interest in this document stems from the possibility that it may involve disposition of property of persecutees. As you know, on behalf of the American Jewish Committee, I have strongly urged that the principle be firmly maintained in any discussions involving either intercustodial problems or the Swiss-Allied Accord on German Assets that persecutees should not be classified as "Germans in Germany" and that the property of persecutees should be returned to them. This is the clearly established policy of the United States as reflected in legislation enacted by the Congress which was supported by the Executive branches of the Government.

To regard persons who were in Germany only because they were in concentration camps and who had none of the ordinary rights generally conferred by citizenship as being "Germans in Germany" is tragic travesty of principles of humanity to which the Governments of such countries as the United States, France, Great Britain and Switzerland must subscribe. This point, I think, needs no elaboration at this time. I make it once more merely to emphasize the desirability of making the memorandum of understanding available so that such implications as it may contain with respect to this problem may be carefully studied.

With kindest personal regards, I am,

Sincerely yours,

Seymour J. Rubin

340605

MEMORANDUM

re: Release of Property of Persecutees by the SWISS COMPENSATION OFFICE

Upon my arrival in Zuerich on September 26, 1949, I contacted the American Legation in Berne (Elfenstrasse 6, Tel. 29616) over the telephone and spoke to Mr. Charles H. Owsley, who told me that he is the assistant of Mr. Alexander Schnee, who has replaced Mr. Nat B. King as the American representative in the Joint Commission under the Washington Agreement.

Mr. Owsley told me that the meeting, which was scheduled in Berne for September, following the meeting in Washington, has not yet been definitely planned. I informed Mr. Owsley about the conversations which I had in May 1948 with Mr. Nat B. King in Berne in connection with the problem of the release of property of persecutees from the restrictions of the Washington Agreement and the Bundesratverordnung of February 16, 1945. Mr. Owsley was only superficially familiar with the problem and told me that he would inform Mr. Alexander Schnee of our conversation and would submit to him the file of the client whose case was, according to Mr. Nat B. King, submitted as a test case to the Joint Commission in 1948, but never ruled upon, because the Joint Commission did not meet since May 1948.

In accordance with the suggestion made by the Department of State in Washington in recent correspondence with me, I contacted the Swiss Compensation Office and discussed the problem with Director Ott, the official in charge of the Administration of blocked German property and his Assistant, Mr. Mollet, to whom I was referred by Mr. Ott.

From my conversations with the 2 gentlemen, I have gained the impression that the attitude of the Swiss Officials concerning the release of property of persecutees is less favorable than it was at the time when Minister Stucki wrote in the letter contained in our files and in the files of the Compensation Office as well as of the Dept. of State in Washington, and the American Legation in Berne, that he regarded it as objectionable in the highest degree if property of victims of Nazi oppression would be liquidated under the Washington Agreement and not released without loss to the beneficial owners.

I was told during my conversations with Mr. Ott and Mr. Mollet on Sept. 27, 1949 that the Swiss Government looks at the Washington Agreement mainly as an economic agreement and a forced Clearing arrangement and not as a political agreement. It was pointed out to me that the interpretation of the Washington Agreement in the opinion of the Swiss Government does not allow an exemption of inmates of concentration camps or other victims of Nazi persecution from the term "Germans in Germany." According to the opinion of the officials, such exemption would require a formal amendment of the Washington Agreement, approved by all parties to this Agreement, and such amendment would have to be ratified by the Swiss Legislator in view of the implications such change would have for the application of the blocking of German property under the decree of February 16, 1945 and its amendments.

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I was told that the problem of the release of property was not discussed recently in Washington as such, but that the Swiss representatives had made certain suggestions in order to prevent hardship like the release of a minimum amount to each owner and the release of property of beneficiaries of estates of persons who have died before December 31, 1947, to such beneficiaries who are not German nationals, but all such suggestions had not been accepted by the other parties.

The case of my client, who was an inmate of the Concentration camp Theresienstadt and is claiming the release of the estate of her mother, who was a resident of Switzerland, was known to the Officials who told me that they could not see their way to grant a release in view of the wording of the Washington Agreement.

It was pointed out to me that it would create unsurmountable administrative difficulties, if victims of racial, political and religious persecution would be exempted from the blocking restrictions and the Washington Agreement. The fact that the American Office of Alien property, under the provisions of Section 32 of the Trading with the Enemy Act, is able to solve the problem, apparently did not impress the Swiss Officials. They seem to be influenced by the fact that practically all German owners of property blocked in Switzerland now produce denazification certificates and describe themselves as anti-Nazi. I did not succeed in convincing the Swiss Officials that there are many objective standards which can be used in order to distinguish genuine victims of racial, religious and political persecution from Germans, who ask for leniency, because they were not active members of the Nazi party. When I asked what would happen if the property of victims of Nazi persecution was liquidated in spite of the fact that these persecutees had emigrated to the United States and were now, like my client, married to an American citizen and about to be naturalized, I received the answer that if the Swiss Compensation Office would not be forced by the Regulations to make payment of the counter-value of the liquidated property inside Germany in German currency, such German currency would be put at the disposal of the persecutee in Switzerland in German Marks at the rate of exchange to be fixed in the negotiations with the Allied powers. The recipient would then be able to sell the German Marks in the free market at the then prevailing rate of exchange and transfer the proceeds to his country of residence. The Swiss Officials realized that under such circumstances, a very substantial loss would be suffered by the persecutees, f.i. at the present rate of exchange 100 German Marks would realize approximately 65 Swiss Francs or approx. 16 U.S. Dollars, compared with the official rate of exchange of 30 U.S. Dollars, which might be reduced by devaluation to 22 to 24 Dollars. The extent of the loss will naturally be influenced considerably by the rate of exchange to be fixed under the Washington Agreement. Even if such rate would tentatively be approximately 80 Swiss fcs. for each 100 German Marks and remain so in spite of the impending devaluation of the German currency, the persecutee is likely to lose more than 1/3 of his property, if he would receive German Marks instead of the release of his original Swiss investment.

In view of the fact that the Department of State has repeatedly expressed the opinion that property of persecutees should be released from the restrictions of the Washington Agreement under the same rules which have been incorporated into the American Trading with the Enemy Act, the attitude of the Swiss Officials, as it appeared in my conversation on Sept. 27th, can only be influenced if additional pressure is exercised in order to make the Swiss authorities realize the grave injustice which would result from the liquidation of the property of genuine victims of Fascist persecution.

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According to the information given by the Swiss Officials, the question of the release of property of persecutees is not included in the agenda of the forthcoming meeting in Berne which is expected to take place in October and in the opinion of the Swiss Officials will be a very short meeting, because agreement on the main points will have been reached in advance.

It is of the utmost importance that the problem of the release of property of persecutees under the Washington agreement is drawn again to the attention of the governmental agencies in charge of the implementation of the Washington Agreement, so that proper steps be taken in time to prevent irreparable damage which would be suffered by the very persons who deserve the fullest consideration on account of the sufferings under Fascist persecution.

Zuerich, September 28th, 1949.

Hermann E. Simon

c/o Riegelman, Strasser, Schwarz &
Spiegelberg
160 Broadway
New York 7, N.Y.
U.S.A.

340608

THE



AMERICAN JEWISH COMMITTEE

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Telephones: ELYSEES 69-11, 83-63 • Cable Address: WISHCOM, PARIS

YIVO RG 347.17
AJC (GEN 10)
JUL 16 1949

Box 295 File 1

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JOEL D. WOLFSOHN, *European Director*

July 13, 1949

TO: Foreign Affairs Department

FROM: Max Isenbergh

The attached report of our recent meeting on heirless and unclaimed property in Switzerland is intended to be a comprehensive description of what took place there. I should add only that our reception by the Swiss authorities was friendly, that they gave the impression of having deliberated a great deal over these problems, that they appear to have no intention of trying to hold on to the properties in question, and that they honestly seek to wrestle with the complex legal problems involved.

I do not suggest, on the other hand, that there is reason to be unduly optimistic, but there is certainly ground for devoting our utmost energies to the problem. It is likely that I shall be devoting a large share of my time to this problem during the next several months.

M. I.

c.c. Seymour Rubin

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13 July 1949

JUL 18 1949

MEMORANDUM

To: Foreign Affairs Department

Subject: Heirless and Unclaimed
Assets - Switzerland

From: Max Isenbergh

Pursuant to arrangements made by the Paris office in conjunction with the World Jewish Congress, a delegation representing the four organizations was received by Dr. Eduard von Steiger, Swiss Minister of Justice and Police, in Berne on July 8, 1949 from 3 to 4:30 P.M. In addition to the Minister and Dr. Alexander, the Minister's expert on the subject, the Political Department and the Foreign Office were represented by Messrs. Burckhardt and Meyer. Our delegation was composed of: Mr. Adler-Rudel, representing the Jewish Agency for Palestine; Mr. Jacobson, representing the Joint Distribution Committee; Dr. Bienenfeld representing the World Jewish Congress; and Mr. Rubin and myself, representing the AJC.

I opened the discussion, after expressing the gratitude of the organizations for the audience, with a rather full outline of measures taken with respect to heirless and unclaimed property in other countries. I indicated also the moral basis of the position the organizations had been pressing in all countries where the problem exists and expressed the hope that Switzerland would be in a position to make an appropriate disposition soon.

Minister von Steiger replied by stating that in principle this was a question for the Foreign Office. He added that the Foreign Office had recently referred the question to the Department of Justice for study and recommendations, because of the apparent complexity of the legal issues involved. He stated that he was glad to discuss the question with us and that the recommendations of the Department of Justice to the Foreign Office would be made in the light of our discussion. Emphasizing that the government had not yet come to any official conclusion on the question, he said that Dr. Alexander who had been studying it for the Department would outline his tentative views. Before Dr. Alexander took the floor, Minister von Steiger requested that we submit to him a dossier of materials on the disposition of heirless and unclaimed property in other countries.

Dr. Alexander stated that before any other action is taken with respect to heirless and unclaimed property in Switzerland, a preparatory registration measure would be essential. This would call for all persons who are not residents of Switzerland.

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and who own accounts there and who have not communicated with the person or institution holding the account since May 5, 1945, to register the account with a central bureau within a specified brief period. Where communications have been made to the holder of the account by heirs or legal successors of the owners, such registration would not be required. [We did not pause for discussing such details as distinguishing a bona fide heir or legal successor from one who is not, for this purpose.] Holders of such accounts who have not received communications would themselves also be required to register their holdings. Dr. Alexander stated that there was no other method of determining the dimensions of the problem. He pointed out also that it cannot be presumed that all unclaimed property is heirless, it being likely that many heirs know only that their predecessors in interest had an account in Switzerland but are ignorant of its whereabouts.

Dr. Alexander suggested that the competent organization to receive registrations would probably be the Swiss Compensation Office. He thought that the Compensation Office would have to assume four functions: (1) make investigations, (2) acquire possession of the property, (3) trace heirs or other successors in interest, (4) work out some arrangement for declarations of death or their equivalent. He said that the last function would involve the greatest difficulty because it is uncertain under Swiss law whether the Swiss Government is competent to issue an effective death certificate or whether it must rely upon the home country of the deceased to supply it.

Another serious problem which suggested itself is the possibility that under Swiss law the home country rather than Switzerland would be ultimately entitled to the property. Dr. Alexander stated that it was premature to attempt to solve the more difficult problems at this time, and that the first problem calling for action would be to contrive a registration measure which would reveal what amounts were involved. He pointed out that while such a measure might be embodied in a resolution of the Swiss Parliament rather than a law, parliamentary action would in any event be indispensable. At this point Minister von Steiger pointed out that the procedure for a resolution is in all essential respects the same as that for a law, i.e., in either case the measure would be subject to a referendum if a large enough number of Swiss citizens called for one. Hence, promulgation of this measure alone would require several months. Minister von Steiger added, however, that his Department will submit its views to the Political Department of the Foreign Office without any further substantial delay.

Dr. Bienenfeld then discussed the issue of whether Switzerland or the country of origin should be entitled to the property. In concluding that it should be Switzerland, he pointed out (1) that the owners' intentions were clearly to place the property outside the reach of their own governments, (2) that it would be immoral to permit the successor to the government which had persecuted the owner to be the beneficiary of the persecution, and (3) that the law of Switzerland supported application of the territorial rather than the national principle in these cases. In connection with the latter point, he argued that the provision of the Swiss code which appears to favor the national principle obviously applies only to residents of Switzerland, and that since the Swiss code had not anticipated the problems arising from a program of mass extermination, there was a gap in the law. Under such circumstances Article I of the Swiss code would apply, which would permit the judge to act as if he were lawgiver and therefore to resolve this problem as morality and justice require.

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In connection with the problem of death certificates, Dr. Bienenfeld maintained that if the Swiss Government should require a death certificate from the country of origin, it would delay the whole program and in the case of the iron curtain countries defeat it entirely. He therefore suggested that a technique of forfeiture be utilized, i.e., that if the owner of the account or his bona fide heir or legal successor failed to register in accordance with the registration measure outlined by Dr. Alexander, his account should be deemed forfeited and that it be handed over to the Swiss Government which in turn would make it available for a program of relief, rehabilitation and resettlement of surviving victims of persecution.

Mr. Jacobson pointed out the possibilities of an alternate treatment of the declaration of death problem, the recent convention on declaration of death submitted to the United Nations by a special ad hoc committee of the Economic and Social Council. Among other things this convention would permit tribunals of the country in which the property is located to issue death certificates for the owners. Hence, by either ratifying the convention or by accepting its principles as a precedent of international law, Switzerland might be able to see its way clear to issue death certificates as needed in this situation.

I pointed out that other countries had found ways of dealing with the problem of declaration of death in connection with non-residents, e.g. Holland, and had done so without legislation. I expressed the hope, therefore, that Switzerland might be able to find a suitable precedent in the action of other countries.

Minister von Steiger stated that while it might have been possible for the Swiss Government to deal with the problem of declaration of death without legislation while the Government still had extraordinary wartime powers, he was convinced that at present it would not be feasible to proceed by executive order and that we should have to assume that parliamentary action is indispensable.

Mr. Burckhardt stated that the Foreign Office had not yet come to any conclusions about the question and confirmed that because of the involved legal issues, they were prepared to lean heavily upon the views of the Ministry of Justice. He asked that materials on disposition of heirless and unclaimed property in other countries be made available to the Foreign Office as well.

Minister von Steiger referred to three expert opinions which had thus far been submitted to the Swiss Government: the first by a group of six Swiss law professors selected by the Swiss Jewish community [I understand that JDC bore the cost of this project]; the second by the League of Victims of the Axis; the third by the Central Organization for Assistance of Refugees.

Mr. Rubin, referring to the United States-Swiss negotiations in connection with Japanese and German assets, pointed out that the secrecy laws of the Swiss need not be an obstacle to achieving an effective program for disposition of heirless and unclaimed property. The Minister pointed out that the exceptions made to the secrecy laws in 1945 were made pursuant to special war powers which no longer can be feasibly invoked. Mr. Rubin stated that he was not arguing that legislation would not be necessary, but merely that in the consideration of the problem the force of other precedents could be drawn upon.

Dr. Bienenfeld requested the opportunity to submit the views of the four organizations on certain of the legal points which had been raised at the meeting, and

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Minister von Steiger said he would gladly receive them. I pointed out that all of the organizations represented maintained European offices and that we desired to remain in close touch with the Swiss Ministries handling these questions. I stated that we would be available for consultation and that we wanted to be of assistance in any way possible. Minister von Steiger stated that should occasion for consultation or discussion arise, he would communicate with the organizations through me.

After the meeting, Mr. Rubin, Mr. Jacobson and I paid our respects to Minister John Carter Vincent of the United States Legation. Mr. Vincent was not familiar with the problem, but responded to it with most impressive receptiveness. He expressed his willingness to help as required, and Mr. Jacobson and I said that we would keep him posted and asked for his support when developments warranted it.

Copy: Seymour Rubin

340613

THE



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JUN 20 1949

June 16, 1949

To: Foreign Affairs Department

SUBJECT: HEIRLESS ASSETS
IN SWITZERLAND

From: Max Isenbergh

Here is a copy of a letter to the Swiss Minister of Justice. It is an outgrowth of recent discussions in Geneva with Dr. Bienenfeld and others on a coordinated program dealing with the problem of heirless Jewish assets in Switzerland.

M.I.

cc: Mr. Rubin

Enclosure

340614

COPY

THE AMERICAN JEWISH COMMITTEE
386 FOURTH AVENUE NEW YORK 16, N. Y.

PARIS OFFICE
30, rue La Boétie
Paris VIII

June 16, 1949

Dear Mr. Minister:

During the past ten years, and particularly since the cessation of hostilities of World War II, the World Jewish Congress and the American Jewish Committee, together with other Jewish organizations, have been actively concerned with furthering the restitution of property seized from victims of Nazi persecution or otherwise lost by such victims in consequence of spoliatory measures. Our representatives have worked in closest cooperation with governmental authorities of Europe and America toward the correction, to the extent that it is possible, of the unparalleled injustices which these victims, and in particular Jews, have suffered. We are gratified that corrective measures have already been put into effect in many countries, and are about to be in others.

We have been apprised that in Switzerland there exists a body of assets of Jewish origin whose owners, victims of persecution in Germany and elsewhere, have died without leaving heirs. In view of the satisfactory developments which have taken place and are currently taking place in other countries with respect to a like problem, we venture to hope that the Government of Switzerland is presently disposed to consider a solution of the question there. In this connection, we should be most grateful for the opportunity to discuss the question with you.

Mr. Seymour J. Rubin, representing the American Jewish Committee, will arrive in Europe at the end of June, and together with Mr. Max Isenbergh, European Counsel for the American Jewish Committee, will be in Switzerland early in July. Dr. F. R. Bienenfeld, legal adviser to the World Jewish Congress, has indicated that he

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Mr. Eduard von Steiger

- 2 -

June 16, 1949

can arrange to be in Switzerland at the same time. Would it be possible for this delegation -- together with representatives of the American Joint Distribution Committee and the Jewish Agency for Palestine, who would be designated for the purpose -- to call upon you in Berne on July 8th? Of course, if that date is inconvenient for you we are ready to rearrange our plans accordingly. Would you kindly communicate your pleasure with respect to such a meeting to Mr. Isenbergh at the above address.

Respectfully yours,

WORLD JEWISH CONGRESS

By _____
Sylvain Cahn-Debré
Executive Director for France

THE AMERICAN JEWISH COMMITTEE

By _____
Max Isenbergh
Counsel for European Operations

Mr. Eduard von Steiger
Federal Minister of Justice
and Police
Berne, Switzerland

MI:RS

340616

THE AMERICAN JEWISH COMMITTEE
NEW YORK, N. Y.

TO: Simon Segal June 6, 1949

FROM: Eugene Hevesi

SUBJECT: German assets in Switzerland

Mr. Rubin told me over the telephone that the Allied-Swiss negotiations are in a "state of advanced collapse," without fundamental conclusions reached. The main stumbling block is disposition over German assets held by Swiss banks in the U.S.

This does not mean final rupture, however, only the end of the current round within a week or so. For us, this is important because in case of a complete breakdown, there would be no basis left for continuing to talk about an "advance."

Mr. Rubin urged Mr. Covey Oliver to work immediately for Allied agreement on an advance ($3\frac{1}{2}$ million dollars) to the IRO even without overall agreement with the Swiss. He was assured of the strongest possible U.S. support. The French are prepared to help, and Mr. Rubin has found out from British sources that the British delegation may soon be authorized to join the U.S. and the French on this issue.

If this is borne out in practice, and the three Allies join in their pressure upon Mr. Stucky, the advance may be obtained now. Mr. Rubin is now working on getting a joint Allied suggestion to this effect formally filed with the Swiss.

EH:rs

cc: Paris
Dr. Gray
Judge Forman
Dr. Slawson

340617

THE AMERICAN JEWISH COMMITTEE Box 295 File 1
NEW YORK, N. Y.

TO: Simon Segal
FROM: Eugene Hevesi
SUBJECTS: German assets in Switzerland

CONFIDENTIAL

May 16, 1949

Mr. Rubin told me over the telephone that the discussion on Friday with Mr. Willard Thorp and Mr. Covey Oliver went off very well, and that the delegation (Messrs. King, Rubin, Linder, Leavitt and Boukstein) had obtained Mr. Thorp's definite promise that the U.S. delegation will press with full emphasis for the acceptance of our proposal by Britain and France, as well as Switzerland.

However, Mr. Thorp expressed doubt about the success of the overall negotiations themselves. Their failure would, of course, frustrate our objective.

Mr. Oliver indicated the difficulties in obtaining British and French support to the advancement of the full amount of $7\frac{1}{2}$ million dollars by Switzerland, but anyway, the U.S. proposal will be formulated in that sense, the delegation will press for it and will try to put forward some solution of the problem of repayment from the escudo fund due at some unforeseeable time from Portugal.

Mr. Oliver told Mr. Rubin that he will advocate that the proposal be presented to the other parties by Mr. Thorp in person, instead of its being presented on the technical level.

Mr. Linder served as the group's spokesman, with Messrs. Rubin and Leavitt filling in details.

EH:rs

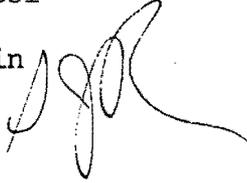
340618

To: Dr. Eugene Hevesi

Date: May 11, 1949

From: Seymour J. Rubin

Subject: Swiss Negotiations



I had a lengthy conversation with a Department of State official on May 9th in the course of which it was indicated that a satisfactory solution was not being reached on the problem of assets in Switzerland belonging to persecutees who were or are resident in Germany. I had previously pressed the position that the property of such persons should be returned on the ground that such persons were not "Germans in Germany" within the meaning of the Accord.

However, although the United States delegation apparently suggested such a position, the British and French resisted and the Allied position was tentatively scheduled along the lines that the Swiss would be requested to unblock the property of persecutees upon individual applications in cases of demonstrated need and only to the extent necessary for the relief of such need. This is, of course, completely unsatisfactory and I did not have much hope that the position would be improved despite the statement that this was only a tentative agreement and that the American delegation could reopen it if it were so desired.

As a result, I spoke with Representative Celler, who was the sponsor of Public Law 671, 79th Congress, under which property in the United States of persecutees was made subject to return to such persecutees upon a showing merely of their status as persecutees. I pointed out to Representative Celler the inconsistency between the legislation which he sponsored and which was now the national policy of the United States and the position being taken in the discussions with the Swiss; and I persuaded him to write a letter to the Department of this subject.

I believe that the letter itself is self-explanatory. I enclose a copy as an attachment to this memorandum.

Enclosure

cc: Mr. Wolfsohn
Mr. Isenbergh

340619

Mr. Willard L. Thorp
Assistant Secretary for Economic Affairs
Department of State
Washington, D. C.

Dear Mr. Thorp:

The N. Y. Times of May 9, 1949 carries a lengthy dispatch from Switzerland with respect to the negotiations which are now going on between the United States, the United Kingdom, France and Switzerland on the subject of German assets in Switzerland.

The N. Y. Times' story indicates that the question of compensation of the German owners is one of the primary problems involved in these discussions. It is implied that one reason for this problem being of importance is the fact that some of the so-called German owners are persecutees who were or may still be resident in Germany.

I wish to call to your attention the fact that Public Law 671, 79th Congress, established the policy for the United States that property of persecutees would not be used for reparation or similar purposes. That law provides for return of property "to an individual who, as a consequence of any law, decree or regulation of the nation of which he was then a citizen or subject, discriminating against political, racial or religious groups, has at no time between December 7, 1941, and the time when such law, decree or regulation was abrogated enjoyed full rights of citizenship under the law of such nation."

The policy behind Public Law 671 was that, despite the large and justifiable claims of American nationals and of the United States for reparations, the assets of persons who were the first and

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most serious victims of Nazism should not be used to satisfy such claims. It appears to me that this policy is even stronger with respect to assets in Switzerland of persecutees when one considers that the proceeds of such assets will be used 50% to satisfy Swiss commercial and similar claims against Germany.

It is my understanding that the Department of State has previously taken the position that the assets in Switzerland of persecutees should be returned to such persons and should not be liquidated under the Swiss-Allied Accord. I hope that, in view of the clearly expressed policy of the United States as contained in the legislation above quoted, the United States will insist on this interpretation of the agreement in any discussions with the British, French or Swiss delegations.

I should appreciate being kept informed of developments.

Sincerely yours,

340621

TO: Mr. Jacob Blaustein May 9, 1949
FROM: Eugene Revesi
SUBJECT: The Jewish share in German assets in Switzerland

With regard to the possibility that you may be requested to participate, together with Mr. Edward M. Hartung or Commander Linder some time Friday, May 13, in a delegation to discuss this subject with Mr. Willard Thorp, Assistant Secretary of State, I submit to you the following background information:

The existing preliminary Swiss-Allied accord provides for the possibility that 50 million Swiss Francs be paid by Switzerland to the IRO for distribution mainly to the Jewish Agency and the JAC, in accordance with the terms of the Paris Reparations Agreement of 1945, and the subsequent Paris Five Power Agreement.

So far, the Swiss have advanced 20 million Swiss Francs for this purpose to the IRO. In Washington, the U.S., British and French delegations stand ready to rediscuss the entire Allied-Swiss financial settlement in a final manner. The negotiations were scheduled to start today, but Mr. Stacky, the Swiss delegate, fell ill.

Mr. Rubin feels that under the circumstances Friday, May 13, is the strategic date for discussing with Mr. Thorp the question of U.S. and Allied support to the suggestion that the Swiss undertake the payment of the difference without further delay. Without doubt these negotiations offer the last opportunity for our pressing for payment of these vitally needed 7.5 million dollars worth of Swiss Francs.

The situation is complicated for us by the following circumstances:

1. In 1947, an agreement came about between the three Allies and Portugal, (negotiated by Mr. Rubin) under which 100,000,000 escudos (roughly \$4,000,000) are earmarked for the same refugee purposes. According to the State Department, this is a clear-cut commitment, and there is nothing discretionary about it for Lisbon. However, the Portuguese have been withholding payment ever since 1947, on the ground that the agreement provides that the proceeds of the liquidation of German assets there are to remain blocked, pending settlement on another issue — the question of German-looted gold in Portugal — for which there is no prospect for a settlement in the foreseeable future. This means that for a considerable time there is no hope for obtaining these 4 million dollars worth of escudos (which are convertible today but may not remain so very long.)

340622

2. Mr. Tuck, Director General of IRO has written a letter to Mr. Adanson in which he suggested that the Allies try to obtain from the Swiss payment only for the difference between the 7½ million dollars owed by the Swiss, and the 4 million dollars "expected" from Portugal. This would amount to only some 3½ million dollars worth of Francs.

Mr. Rubin has already confidentially sounded out Mr. Thorp and Mr. Oliver of State (the latter will be U.S. representative at the negotiations), and his impression is that vis-a-vis the other two Allies and the Swiss, they would be willing firmly to support the much less satisfactory solution suggested by Mr. Tuck, but that they may have to retreat with regard to the question of Swiss payment for the full 7½ million dollars.

The interview is considered urgent and necessary in order to make sure, first, that our government places the strongest possible pressure upon the British and French delegations, which may be opposed even to the more modest solution,- and, second, to try to obtain, if only possible, positive and firm American support to the more favorable solution that the Swiss advance the full 7½ million dollars now. The need for such funds is urgent now, while the EF move is still on, and the Swiss or the reparations pool would be reimbursed by the IRO as soon as the Portuguese come through with their payment.

Hiro

340623

YIVO 347.17
AJC (GEN 10)
Box 295 File 1

THE AMERICAN JEWISH
JOINT DISTRIBUTION COMMITTEE, INC.

270 MADISON AVENUE
NEW YORK 16, N. Y.

MEMORANDUM

From Eli Rook

To Messrs. Boukstein and Hevesi

New York, May 6, 1949

Subject Confiscated Dutch Assets in Switzerland

I am sending you attached copy of a memorandum which I have recently prepared in connection with the above matter, and which you will find self-explanatory.

ER:AU
Enc.

From Eli Rock

April 29th, 1949

To Moses A. Leavitt

Subject Conference in Dr. Rosenbluth's office--confiscated Dutch assets in Switzerland.

Pursuant to your instructions, I met this morning, at their offices, with Dr. Rosenbluth (representative of the Israeli Department of Treasury in New York) and a Mr. Green, apparently his assistant. The three of us in turn heard out a Mr. Van Leuwen, a Dutch-Jewish business man temporarily in this country. The results of the conference were:

Mr. Van Leuwen addressed us in behalf of a Mr. H. Salomons of The Hague, formerly Dutch Consul in Zurich. The "story" is that the said Mr. Salomons approached the Swiss authorities in 1946--at the time he was no longer Consul--with reference to remaining Dutch assets which the Germans had confiscated in Holland and deposited in Switzerland. Apparently the aim was to persuade the Swiss to turn over to the Dutch further assets beyond those which the Swiss were obligated to return to the Dutch and other governments under the agreement reached at the Washington conference of March 1946. Mr. Salomons claims that he was informally representing the Dutch Department of Treasury rather than the Foreign Ministry and that his whole approach to the Swiss was on an informal basis. He has reported further that some progress was made in these approaches but that they eventually failed of success, in measure because of conflict between the two Dutch departments. In any event, it seems that he later continued his discussions in a private capacity and succeeded in getting some Swiss officials, who would not consider returning any further sums to the Dutch government, to look favorably upon a proposition whereby some 250 million Swiss Francs would be turned over for Jewish purposes. (Apparently, this was induced by a sense of "conscience" on the part of the Swiss and also by a fear that their continued refusal might result in an unfavorable press campaign being launched against them.) At this stage Mr. Salomons seeks funds to return to Switzerland for a continuation of his discussions and also requests that he be brought over to this country in order to attend the forthcoming conference in Washington between a Swiss delegation and the U.S. State Department. Incidentally, he proposes also, in the event of "successful recovery", that the 250 million Swiss Francs be distributed among various Israeli organizations and institutions and that a fee of 1% of the total be paid over to him for his efforts. (May I emphasize that the above is the version given to us by Mr. Van Leuwen and set forth in various written reports by Mr. Salomons.)

In response to the above, Dr. Rosenbluth pointed out that he had no authority to act on the matter and that if Mr. Salomons has any propositions to make to the Israeli Government, he should present them to Mr. Horwitz, the Undersecretary of the Israeli Treasury Department now in London. (I should mention also that the proposition of Messrs. Salomons and Van Leuwen was being submitted solely to the Israeli government.) Accordingly, Mr. Van Leuwen agreed to wire Salomons to that effect, and Dr. Rosenbluth stated that he would get in touch with Horwitz's office and request them to contact Mr. Salomons.

/over/

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During the course of the conference, and after Mr. Van Leuwen had left, I sketched in for Dr. Rosenbluth (some of it he already knew, of course) and Mr. Green the background of the various reparations conferences and the distribution of assets among the JDC and Jewish Agency. I mentioned also the efforts which were now being made to recover heirless property in various countries. Although Mr. Van Leuwen had been completely vague as to whether any of the confiscated Dutch assets still remaining in Swiss hands were Jewish in origin (he stated only that it was generally accepted that an unknown and probably unidentifiable proportion was Jewish), I nevertheless pointed out to Dr. Rosenbluth and Mr. Green that, whether or not these alleged assets in Switzerland were technically subject to the reparations-distribution machinery previously set up, this machinery should be used in this instance and that in fact it had already been used in other situations which did not come strictly within the scope of the Paris Reparations Conference agreement. While we all thought that the Van Leuwen-Salomons story sounded rather fantastic, we felt that the information should be passed on to Europe for whatever action they might wish to take at this stage. Dr. Rosenbluth indicated that in his communication to Horwitz he would urge them to contact JDC Paris, and I in turn indicated that I would pass the information on directly to Jerry Jacobson.

/s/ ELI ROCK

ER:AU

cc. JJJ
JHF

340626

November 16, 1948

Mr. Eli Rock
The American Jewish Joint
Distribution Committee, Inc.,
270 Madison Avenue
New York, 16, N. Y.

Dear Eli:

I had a lengthy lunch yesterday with Mr. Guy de Rham, of the Swiss Legation, and Mr. Stanley Metzger, of the Department of State, with respect to the problem of tracing heirless assets in the United States held through the medium of Swiss banks. I need not burden you with the details, but the upshot of the conversation was that de Rham indicated that the Swiss banks, if approached through the Swiss Government, might very well be willing to help in connection with this problem. He stated, however, that they had studied the heirless property problem at considerable length in connection with the letters exchanged in the time of the 1946 Accord on German external assets, and that it ~~was~~ a very difficult problem to handle in the absence of some specific information. He suggested, as I had suspected that he would, the possibility of giving to the Swiss Government and to the Swiss banks a list of names which they then could check against their records. I told him that I was not sure of the practicability of getting ~~them~~ any very highly refined list of names of possible depositors, but agreed to explore this question further. He was also quite clear in suggesting that such a list should not merely be a list of all persons who had been exterminated in Europe during the war, but should bear some greater relation to possible deposits through Switzerland.

I shall probably be talking about this matter again with de Rham or with Fuchs, the Counselor of the Swiss Legation here, and shall keep you advised.

Sincerely,

Seymour J. Rubin

cc: Mr. Eugene Hevesi

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ARBEITSGEMEINSCHAFT
ZUR VERTRETUNG PRIVATER VERMÖGENSINTERESSEN IM AUSLAND

Z U R I C H
Jenatschstraße 1
Tel. (051) 25 85 23

Sekretariat ST. GALLEN

Oberer Graben 12
Tel. (071) 2 81 47
Postcheck-Konto IX 8282

Telegrammadresse:
EDENSWALD, St. Gallen

Sekretariat BERN

Marktgasse 51/III
Tel. (031) 2 07 95
Postcheck-Konto III 5020

Zurich, the 27th February 1947

To the
American Jewish Committee
300 Fourth Avenue,
New - York 16

Gentlemen,

As everyone knows, fortunes of all kinds have been withdrawn from unpopular owners through the perished German Government in all countries controlled by Germany. The different ways of proceeding for these withdrawals are well known so that we can proceed only into details anymore at this occasion.

In many cases the victims of these robberies are unfortunately no more amongst the living persons. Many of them have succeeded to escape to foreign countries. The contact with the authorities competent to-day for making amends has been lost through the long absence and the various events. A great part of these victims fear the steps to be taken, as they are not disposing of the necessary funds, or they doubt very much that there is a possibility of restitution of their fortunes.

For a single person it is indeed very difficult and often disproportionately expensive to put through his claim at the proper place. Not all of the numerous persons offering their services for representing the interests of these poor men, dispose of the necessary knowledge and justify the confidence put in them.

In Switzerland, the "Swiss Association for Saving and Safeguarding of private property interests abroad" chief-office in Zurich and secretary's office in Berne and St. Gall is taking care of all advocatable claims of such persons, unable to safeguard their interests themselves. The collaborators in the various occupation zones of the

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"ARBEITSGEMEINSCHAFT" are endowed with the necessary knowledge with regard to economy and law. They dispose of the necessary relations to the competent authorities in their working district.

However we must emphasize the fact that the competent authorities are only able to deal with relative high values whilst claims for furnitures etc. for the time being must be put aside. For this reason only claims should be notified which do not bear the risk that they will be considered as bogotolled by the authorities and therefore would be put ad acta once for ever.

According to law-regulations put in force up to-day in the following districts there will be proceeded efficaciously

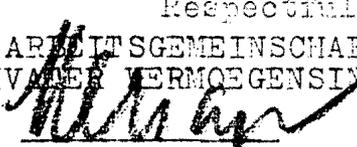
- 1) Tchechoslavic
- 2) Austria
- 3) Germany :
 - a) Russian Zone
 - b) French Zone
 - c) British Zone
 - d) American Zone
 - e) Berlin
- 4) Netherlands.

The 2 secretary's offices Berno and St.Gall will work through all materials sent to them and will transmit it to the competent collaborators with the necessary proofs for further manipulation.

We are sure that these communications will be of interest to you and your circles and we can assure you that all cases submitted to this "ARBEITSGEMEINSCHAFT" will be treated with all care.

Respectfully yours

ARBEITSGEMEINSCHAFT ZUR VERTRETUNG
PRIVATER VERMOEGENSINTERESSEN IM SAISONLAND


Dr. E. R. Merian


Dr. B. A. Steffan

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AMERICAN JEWISH
CONTRIBUTION COMMITTEE, Inc.

270 MADISON AVENUE
NEW YORK 16, N. Y.

MEMORANDUM

From B. M. Joffe

To American Jewish Committee

New York, Feb. 5, 1947

Subject Swiss procedure for the restoration of property to refugees of German origin
Similar procedure for Austria

A copy of the attached letter dated Prague Dec. 10, 1946 and received from the Intergovernmental Committee on Refugees is being forwarded to you for your information and guidance. It deals with

- a) restitution of property in Switzerland
- b) restitution of property in Austria

BMJ:MSR
Enc.

B. M. Joffe

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CONFIDENTIAL

YIVO 347.17 AJC (GEN10)
TRANSLATION Box 295
File 1

INTERGOVERNMENTAL COMMITTEE ON REFUGEES
PRAGUE 1. Prikopy 3.

RE: REST VG/BB

Prague, December 10th, 1946

American Joint Distribution Committee
Prague V
Josefovská 7

RE: Restitution of property

An agreement has been concluded in Switzerland between our representative in Switzerland and the Swiss Office de Compensation (Clearing Office of the Swiss National Bank) to the effect that property belonging to refugees of German origin will be released on presentation of a certificate issued by the Intergovernmental Committee on Refugees. Refugees coming under this agreement are those who either lost their German citizenship by individual decision or refugees who lost their citizenship generally under the German law of November 25th, 1941.

Documents on property blocked in Switzerland should be passed on to our office which will contact the Swiss National Bank.

The Swiss National Bank does not wish this agreement to be published in printing and we ask you therefore to submit to the Intergovernmental Committee on Refugees all publications dealing with release of property belonging to German refugees. A certificate form is attached.

Re: Restitution of property in Austria

Enclosed please find circular letter of the Intergovernmental Committee on Refugees in Austria re restitution of Jewish property in Austria (in English).

INTERGOVERNMENTAL COMMITTEE
ON REFUGEES

Dr. V. Gross. Secretary

340631

HEADQUARTERS IN AUSTRIA
19 Strudlhofgasse, Vienna IX.

RESTITUTION OF PROPERTY AND RIGHTS

The following information regarding the present state of the Restitution Laws in Austria has been drawn up by the Legal Section of Intergovernmental Committee on Refugees (Hrs. in Austria) for the information of refugees within its mandate. Attention is drawn to para. 5 which sets out the service which can be provided to refugees by the above office.

1. By the so-called "Nichtigkeitsgesetz" all legal transactions made after March 13th, 1938, whereby under the Nazi influence property was taken away from the owners, are null and void.

This law being only a theoretical one, states in para. 2 that further laws will follow to put into effect the above-mentioned Nichtigkeitsgesetz.

2. In consequence of this Nichtigkeitsgesetz the first "Ruckfuhrunsgesetz" was promulgated: all property seized by the German authorities and being under the administration of the Austrian state will now be released to the former owners.

It is now possible therefore to make application in such cases for the restitution of such property. Refugees may therefore be advised to make such applications for release, addressed to the Finanzlandesdirektion, Wien.

But it must be stressed that this first Ruckfuhrunsgesetz refers to property being under the administration of the Austrian State only, not to property being in possession or ownership of private persons or legal entities, e.g. persons who have arianised such property.

3. The law which has to provide the restitution of property being in possession or ownership of private persons or legal entities is about to be drafted.

4. Such private persons and legal entities have to give notice concerning arianised property not later than 15th November, 1946, whilst the former owners have to lodge their claims within one year setting out exactly and particularly the nature of their claims.

Refugees are therefore advised to collect evidence and to prepare their list of claims in order to be able to lodge their claims in time. These claims are to be addressed to the Bundesministerium fur Vermogenssicherung Wien 1, Hofburg, Amalienstrasse.

5. The Legal Section of the ICGR is ready and willing to help all persons who are under its mandate to collect the necessary information needed for forwarding the abovementioned applications and registrations and to transmit to them the official forms of registration published by the Bundesministerium fur Vermogenssicherung.

21 October 1946

340632

C E R T I F I C A T E

for the Swiss Clearing Office

The Director of the Intergovernmental Committee on Refugees

or

The Delegate in *.....of the Intergovernmental Committee
on Refugees

At the request of M.....

Residing at (present address).....

Certifies:

that

Name and fore-names.....

Born (exact date).....

At (place of birth).....

Married or single.....

Occupation.....

took refuge in *.....on.....

that the above-named person is stateless, having been deprived
of German nationality by the German decree No.published

in the Official Gazette of the Reich No. on

The amount of assets is stated on the attached slip

Documents produced:

- a) (e.g. passport
- b) birth certificate
- c) identity certificate, etc.)

INTERGOVERNMENTAL COMMITTEE ON REFUGEES

The Director or
The Delegate in *

* (Switzerland, France, Etc.)

Translation

According to statements made by M.....

he owns the following assets in Switzerland:

Real or personal estate

.....

.....

Where located (full particulars)

.....

Paris, June 14, 1946

FROM: Max Gottschalk

TO: Dr. Slawson

My trip to Switzerland had a triple purpose:

- 1) - to make some investigations on behalf of Dr. Elie GINZBERG, concerning heirless property in Switzerland.
- 2) - to establish contact with the Swiss Jewish leaders.
- 3) - to appoint a correspondent for the A.J.C.

1) - Dr. Ginzberg gave me the attached memo before I left for Switzerland. This is on account of my investigation. I contacted first an old friend, Mr. Armand BRAUNSCHVIG, Vice-President of the Federation of Swiss Congregations and talked the matter over with him. His first impression was that there was not a large amount of heirless funds. He introduced me to several bankers who expressed a similar opinion. I wondered whether it was worth while to make further investigations. I called Dr. GINZBERG in LONDON and he stated that he had been given from a source which, at that time, he considered reliable, a figure of 38,000,000 Dollars. I then looked for the proper person to give a legal opinion and I appointed Mr. Jean Braunschvig, a young lawyer, who studied in CAMBRIDGE, is specialized in international law and has a good practical sense. His first impression was that the matter was a simple one and could be settled without great difficulties. I had a meeting of several hours with Professor Paul Guggenheim, who teaches international law and with several other lawyers. They all gave the same answer: That it would not be difficult to find a procedure by which the Jews, who had been victims of the Nazis and had funds in Switzerland, could be declared dead by the Swiss authorities and their funds made available by the Swiss Government to an agency designated by the Reparations Commission. After 4 days of study, Mr. Jean BRAUNSCHVIG handed me his brief. This brief shows that the situation is very different from the opinion first given. In summary, the situation is the following: The Swiss law ~~of the cantons of Zurich, Bern, Lucerne, Schwyz, Unterwalden, Glarus, Appenzel A. O., Appenzel S. O., Thurgau, St. Gallen, Graubunden, Valais, Fribourg, Neuchâtel, Vaud, Val de Saane, Val de Rhodane, and Geneva~~ ~~of the cantons of Zurich, Bern, Lucerne, Schwyz, Unterwalden, Glarus, Appenzel A. O., Appenzel S. O., Thurgau, St. Gallen, Graubunden, Valais, Fribourg, Neuchâtel, Vaud, Val de Saane, Val de Rhodane, and Geneva~~ on basic principles, recognizes that any foreigner is ruled by his law ~~of his country of origin, of his country of birth, of his country of nationality or of last domicile.~~ of nationality or of last domicile. As the Jews who have been the victims of the Nazis were in no case domiciled in Switzerland, the declaration of their death must be made, let us say in the case of a Pole, by the Polish Government. The Swiss would only act on the basis of a document issued by the Polish authorities. But supposing this document could be obtained following the laws of the different

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countries, the heirless property of the citizen reverts to its Government, so that in nocase the Swiss Government would come into possession of it and be able to transfer it to the Reparations Commission or any agency indicated by it. So it appears at this point that the heirless property has to be obtained not from the neutral countries, but from the countries of which the victims were citizen or in which they were domiciled. I had several conferences on this problem with Mr. Jean BRAUNSCHVIG, Mrs. Georges Braunschvig (see below) and Mr. MASON, Dr. GINZBERG's assistant. I had great difficulties to make this understood by Mr. GINZBERG, who is an economist but not a lawyer. He insisted that it was a question which should be based on public law and could be politically arranged, but Mr. MASON and Mr. LINDER agreed with me that it was not probable that this line could be followed as in the end the Swiss Government would be responsible towards the Polish and other Governments for the heirless funds which would be discovered in Switzerland. There were, of course, other difficulties. The Swiss bankers being to a large extent depositors of foreign funds received from people who do not want their own Governments to know about these deposits, are very respectful of the professional secret and would be very reluctant to disclose any accounts, but at my request, Professor GUGGENHEIM contacted some Swiss Government authorities in Berne and thought that this, in the present case, could be overcome. The first note which guided Dr. GINZBERG, stating that there were international agreements between Switzerland and other countries, has no bearing ~~as you will have seen from Mr. BRAUNSCHVIG's brief. Somewhat~~ as you will have seen from Mr. BRAUNSCHVIG's brief. Somewhat astonished that a precised figure could have been given of the total of the heirless funds, I pursued my investigation. I questioned the two Jewish bankers, Mr. Paul DREYFUSS, BALE and Mr. Walter BAER, Zurich. None of them had ever considered the problem. Mr. Baer evaluated the deposits made by foreign Jews during the critical period as representing 1/2 % of the number of the deposits in his bank, but added that most were small deposits. Mr. Dreyfuss did not know. Mr. Jean Braunschvig and I talked to several non-Jewish heads of these banks and all of them stated that they never have been asked to ascertain what the amount of Jewish foreign deposits were and would of course be less able - in fact completely unable - to evaluate the heirless property. So, I came to the conclusion that the statement made to him by a certain Mr. BIENENFELD had no basis. When I mentioned this to Dr. Ginzberg on my return, he agreed that he had lost faith in Mr. Bienenfeld's appraisal and agreed also that no correct evaluation is, in any way, possible.

In conclusion, it appears that a careful study must be made in each country, neutral or other, as to the possessor of their heirless funds, once the death of the Nazi-victim is established. If the property reverts to the Government, negotiations can then be undertaken with the Government for the release of these funds. As far as Switzerland is concerned, the Federation of Jewish Communities is prepared and even eager to study the problem and enter negotiations with the Swiss Government. I have been keeping in touch with them and advising them according to Dr. GINZBERG's directions. The decisions made by the Reparations Committee, of which Dr. Ginzberg was a member, entrusts the Jewish Agency and the Joint with the heirless funds to be obtained from the Governments. It will be up to the Agency and the Joint to keep from now on in touch with the Federation in Switzerland and similar Jewish bodies elsewhere.

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2) - I went to St. Gallen to meet Sally Meyer, who has been for many years the head of the Swiss Jewish Community and is the Joint representative for Switzerland. He had deserved the recognition of every Jew for his remarkable work during the war. He had nevertheless to abandon the chairmanship of the Swiss Federation, because he was criticized for not having protested with sufficient energy in 1942 the Government's decision to refuse admission to Jews, escaping from France and Austria. His successor died a few months ago. The new appointed President is Mr. George Braunschvig, lawyer in Berne. He is not related to Mr. Jean Braunschvig. The new President has been active in all the important trials which took place in Switzerland with regard to Jews, especially the Frankfurter case. He is about 45 years of age. He is a non-Zionist, and very eager to collaborate with the Committee. He invited me to the annual meeting of the Federation which took place in Berne on the 28th of May. The 22 congregations were represented by 98 delegates. They elected the new President, the 7 members of the Executive Committee and went through the customary business. It is the duty of this Federation to fight anti-Semitism. They have in Zurich a special office with a few people watching the situation. The Committee intervenes wherever necessary. I also met with Mr. Armand Braunschvig in Geneva, the head of the Jewish Community there, and, up to recently, Vice-President of the Federation. He resigned and his place as a member of the Executive has been taken by his son, Mr. Jean Braunschvig. The situation in Switzerland, as far as anti-Semitism is concerned, is very much alike the one we find in other countries. Of course, there is no problem of restitution, which eliminates that cause of friction, but there is, of course, a much wider Jew-consciousness than before Hitler and the Jews themselves have become much more sensitive. Nevertheless there is no problem of emigration, some groups of refugees excepted. You will receive the reports concerning this problem.

As you know, since its creation, the Federation affiliated itself to the WORLD JEWISH CONGRESS. This was an astonishing initiative on the part of Sally Meyer. He himself repudiated since the World Jewish Congress. I had been told that the strongest supporter of the WJC was Professor Paul Guggenheim in Geneva. I discussed the problem with him and he denied taking an active part in the WJC, stating that he had just advised the Geneva Bureau, when it was cut off from the world during the war. However, his friends, whom I repeated this statement, said that this meant a real change in his previous attitude. I was told that no more than 1/4th of the delegates are Zionists, and even some talks which I had showed that not all adhere to the Biltmore declaration and were in fact non-Zionists. In my conversations with the new President, I pointed out the illogical attitude of the Committee, by being affiliated to the WJC and subsidizing it. The answer was that his intention was to weaken the ties progressively, the subsidy has been cut in two this year and may be cut completely next year. In Switzerland, like everywhere else, the enlightenment in the activity of the WJC brings a change in the attitude of the people, but it seems that the WJC is really spending money now on relief for children and otherwise in many countries, which the total is really unimportant in comparison with the JOINT.

3) - Several persons had been mentioned to me as potential candidates. I did not find them suitable, but I finally selected Mr. Emil Raas, lawyer, Marktgasse 51, Berne. This happened really at the last minute, before my departure from Switzerland and I have still to give him detailed written instructions. He is an associate of Mr. Georges Braunschvig and has been interested in fighting anti-Semitism for many years. He is considered as a very able man and lawyer. He is under 40. I will send you copy of the correspondence I will exchange with him.

March 20, 1946

YIVO RG 347.17--
AJC (GEN 10)
Box 295 File 1

William Frankel

Rayle Schupper

*Switz
Heiler assets*

Enclosed is a copy of a memorandum which was sent to Marcus Cohn (our Washington representative) to discuss informally with the pertinent authorities.

I will keep you advised on further developments so that if parallel action is desired by the British and French, you or Gottschalk can go ahead.

340638

Memorandum on Assets in Switzerland Belonging to Jewish Refugees

At the end of the war, Switzerland blocked all German-owned assets in her territory by a decree promulgated on February 16, 1945, and amended on April 27 and July 3 of that year. Negotiations for the disposal of these assets are now taking place between the Allied authorities and the Swiss government. The Allied authorities seek to seize these assets and apply them to the reparations account; the Swiss claim that German-owned assets in Switzerland are in fact insufficient to meet the debts due them from Germany, and wish to apply all such assets in their possession primarily to the satisfaction of such debts. Conferences in regard to this problem are at present taking place in Washington between a Swiss delegation, headed by Dr. Walter Stucki, and representatives of the United States, headed by Randolph Paul. The British and French governments are also represented in these conversations by their financial missions in Washington.

Among the assets which have been blocked by the Swiss government are those of many refugees from political, racial, or religious persecution. These persons, most of whom were considered "stateless" by the Swiss government prior to Hitler's collapse, have nevertheless been treated as German nationals in the blocking of assets. As "stateless" persons they were subjected to special police surveillance and various other types of discrimination, and the Swiss police have full records as to their identities. There is hence no legitimate reason for failing to distinguish between them and persons who were in fact nationals of the Third Reich.

In fact, however, the Swiss government originally agreed to exempt only those who had been individually expatriated by the Nazis. Those who were expatriated by the decree of November 25, 1941, or other general laws, were not exempted. In the middle of December, 1945, however, the Swiss authorities sent out new instructions -- which they did not make public -- abolishing the distinction between persons who had been expatriated individually and those who had lost their German citizenship under the general decree of November 25, 1941. This was not an amendment to the decree, but merely a change in administrative regulations, and Jewish organizations in Switzerland were informed of it orally by the Swiss authorities.

Thus the present status is that the decree blocking German assets makes no distinction between those who were actually German citizens during the war, and those who had fled Hitler's Reich and been deprived of their citizenship. The administrative regulations provide, however, that the assets of the latter are to be released upon presentation of proper proof of their status.

In the case of persons expatriated individually this proof consists of a copy of the decree of expatriation or evidence of its publication in the official gazette of the German Reich or the State of Prussia. In the case of persons expatriated under the decree of November 25, 1941, it consists of correspondence with the German authorities, a passport stamped with the "J", or other proof of Jewish origin or residence abroad at the time of the aforementioned decree of expatriation.

We are informed by the Federation of Jews from Central Europe that they know of no case where assets have actually been unblocked under these provisions. Our major problem, therefore, appears to be one of

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persuading the Swiss to speed up their administrative machinery in this respect. We might perhaps point out to them that in most cases it is not necessary for them to wait for the presentation of the proofs referred to above, since their own police records contain ample record of the status of most of the individuals involved.

It would, of course, be desirable to have the property of refugees from Nazi persecution exempted from blocking and vesting as a matter of law and not merely of administrative regulation. It might also be wise, therefore, to bring this aspect of the question to the attention of the Swiss. The presence of the Swiss delegation headed by Mr. Stucki may afford an opportunity for communicating our views on these matters to the Swiss authorities. It may also be desirable to request the American authorities to indicate to the Swiss -- if possible jointly with the British and French -- that this country has no interest in the assets in Switzerland owned by bona fide refugees, and will interpose no obstacles to the release of such assets. In the special case of refugees now resident in the United States, whose assets are blocked in Switzerland, it might be possible to request the United States authorities to make representations on their behalf.

March 18, 1946

340641

C O P Y

AMERICAN FEDERATION OF JEWS FROM CENTRAL EUROPE, INC.
1674 Broadway
New York 19, N. Y.

YIVO RG 347.17

AJC (GEN 10)
Box 295 File 1

December 10, 1945

Mr. Moses A. Leavitt, Secretary
American Jewish Joint Distribution Committee
270 Madison Avenue
New York 16, N.Y.

Dear Mr. Leavitt:

Our Executive Committee decided at its last meeting to contact you and ask your organization for cooperation in the following matter:

As you probably know, the Swiss Government has blocked all German property situated in Switzerland by Decree of Feb. 16, 1945, amended April 27 and July 3, 1945. This measure applies also to Jews from Germany, who were admitted to Switzerland for temporary refuge, although those Jews were deprived of their former German citizenship by Nazi Decree of Nov. 25, 1941. In spite of their denaturalization those Jews are considered Germans by the Swiss Government and are treated like Nazi Germans with respect to their property.

Under the Swiss Decree even the assets of those Jews from Germany, who emigrated from Switzerland meanwhile and are now residing in the United States, were blocked. To give you an example: a member of our group, when emigrating from Switzerland to the United States, left part of his money with a Swiss bank to be used for living expenses by his mother residing in Switzerland. He was informed by his bank that he has no longer access to his account. In another case a Jewess from Germany, living in Switzerland and holding a certificate of Immigration to Palestine, was not able to get from her bank the money needed for transportation due to the blocking of her account.

All steps taken so far by refugee organizations in Switzerland failed to change the attitude of the Swiss Government which is indefensible from a legal as well as moral point of view.

There is no doubt that all relief organizations, especially the Joint, are vitally interested in this matter because they all have to care for the refugees in Switzerland and to pay for the costs of their migration to their final destination, even for those who would be self-supporting if their assets in Switzerland would be released.

May we, therefore, suggest that your organization take immediate steps by approaching the Swiss Government. In our opinion this procedure would be more appropriate and effective than any steps taken by those against whom the measures of the Swiss Government have been directed.

We would appreciate hearing your reaction to this suggestion as soon as possible.

Very sincerely yours,

Herman Muller
Executive Secretary

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HP

June 30, 1953.

YIVO 126347.17
AM Jew. Com. (GEN 10)
Box 295, File 2

(GEN=General)
Box 295 File 2

Mr. Winthrop Brown
American Embassy
London, England

Dear Mr. Brown:

On the following matter, I write on behalf of the American Jewish Committee, for whom I normally act in Washington on foreign affairs matters.

The Committee, as you know, is deeply interested in payments to be made under the terms of Article 8 of the Paris Reparation Agreement. It is, of course, particularly interested that the payments to be made to the American Joint Distribution Committee and to the Jewish Agency, as the operating agencies recognized on behalf of Jewish victims of Nazi persecution, be delivered as promptly as possible.

The Committee is, of course, deeply appreciative of the efforts toward this end of the United States Government, and particularly of the Department of State and of the American Embassy in London.

Commitments have been given, in past discussions in Washington, that the sum of 17,205,600 Swiss francs would be paid over for the account of the victims so soon as funds came into the hands of the Allied Governments. Despite this, and through no fault of the United States, it became apparent, after receipt of such funds, that somewhat over four million francs were disputed by the United Kingdom. At that time, and after consultation with the interested organizations, the United States Government stated to the British Embassy in Washington that the United States would, for the purpose of obtaining immediately much needed funds, accept the British calculations for the moment and postpone discussion of the disputed amount.

It is now apparent that the purpose of this concession has been nullified by new British objections, including some which were supposedly settled in the Washington conference of January, 1953.

I therefore propose to request that the Department:

1) Notify the United Kingdom that its concurrence in the lower sum originally proposed by the U.K., even as a provisional concurrence, will be withdrawn after July 10, 1953, if payment is not made by that date.

2) Further notify the U.K. that the United States will thereafter insist on payment of the full sum of 17,205,600 Swiss francs, out of the funds now on deposit.

3) Further decide and so notify the U.K. and France that the United States will ask that a sum of Swiss francs equivalent to 100,000,000 Portuguese escudos be set aside, out of the Swiss francs now on hand.

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4) Further decide and so notify the U.K. and France that the United States will not concur in other payments out of the Swiss francs now on deposit until the obligations of the Allied Nations to the victims of Nazi actions have been satisfactorily met, in accordance with the above paragraphs.

It is our earnest hope that these matters, in which a spirit of humanity has in the past been the motivating force, can be settled without difficulty and without pettiness. We deeply believe that if the considerations which have impelled the intergovernmental commitments on which we have relied - and, more brought to the fore, the British Government, no less than its allies, will concur in the carrying out of these commitments. Should this unfortunately not be the case, we do feel the consequent necessity of referring to the formal obligations which rest upon the Allied Governments, obligations freely acknowledged by the United States and France, and of requesting that measures to ensure the carrying out of those obligations be taken.

We request that, within the limits of its instructions, the American Embassy take action in accordance with the above-stated requests.

Sincerely yours,

Seymour J. Rubin

1832 Jefferson Place N.W.
Washington, D. C.

340644

LAW OFFICES

LANDIS, COHEN, RUBIN, SCHWARTZ AND GEWIRTZ

1832 JEFFERSON PLACE, N. W.

WASHINGTON 6, D. C.

STERLING 3-5905

JAMES M. LANDIS
WALLACE M. COHEN
SEYMOUR J. RUBIN
ABBA P. SCHWARTZ
STANLEY GEWIRTZ
GEORGE J. SOLOMON

February 2, 1953

Dr. Eugene Hevesi
American Jewish Committee
386 Fourth Avenue
New York, N. Y.

Dear Eugene:

As I indicated in our recent telephone conversation, a private meeting was recently held in the State Department by the U. S., U. K. and France, at which the remaining problems concerning German external assets were discussed. Among the outstanding problems there is involved the question of the balance of \$7,500,000 still due to the I. R. O. to make up the full balance of \$25,000,000 allocated under the Paris Reparation Conference. As you know, of this balance 60% is due and owing to the JDC and JAFFP.

Though the meeting was a confidential, private session, of the interested governments, I was requested to attend one of the sessions in order to discuss the question of the balance due to the \$25,000,000 Reparation Refugee Fund. As you may recall, we had some indication some time ago that the British Government might attempt to reduce payment of the full balance due, on the theory that the Allies had not received themselves the sums which they had anticipated at the time of the Paris Reparation Agreement.

At the session which I attended the three governments covered the major points involved in the payment of the balance, and I had occasion to explain at great length the legal and moral basis upon which the claim for payment of the full balance of \$7,500,000 was made. The session was extremely helpful since it clarified many points which I believe the British representative was not aware of.

As you will note from the enclosed memorandum, all of the issues with respect to the payment of the balance of \$7,500,000 were resolved satisfactorily. Now that it is absolutely agreed that the full balance will be paid, there is little more that we can do for the moment except to await presentation of the Swiss-German-Allied agreements to the Bonn parliament. Since the Germans have already arranged for an immediate loan of 100 million Swiss Francs (on the security of German assets in Switzerland which will be returned to them), there will be no delay in the payment of the 100 million Francs to the

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- 2 -

Dr. Eugene Hevesi

February 2, 1953

three Allied Governments; nor will there be any delay in the payment from the tri-partite account to the I. R. O. The mechanics for payment by Mr. Kingsley are arranged and in order and prompt payment will be made by him.

When I saw Moe Leavitt and Moe Beckelman in Washington ten days ago I gave them a copy of the enclosed memorandum, so that they are fully informed.

Since the meeting in the Department was private, the information set forth in the enclosed memorandum is strictly confidential and should remain so.

Yours sincerely,



Abba P. Schwartz

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April 29, 1952

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My dear Mr. Javits:

Reference is made to your letter of April 15, 1952 concerning the application of part of the proceeds of German assets in Switzerland and Portugal for the benefit of non-repatriable victims of Nazi action. You request assurance that the proposed contractual arrangements with Germany will conform to the obligation to devote portions of those assets to the relief and rehabilitation of such persons, and information with regard to the status of the liquidation of German assets in Switzerland and Portugal.

You may be assured that it is the firm position of the Governments of the United States, the United Kingdom and France that nothing in the proposed contractual arrangement shall in any manner interfere with the execution of the obligation to which you refer. You will appreciate, of course, that the question of the treatment of German external assets, particularly those in the neutral countries, is a sensitive one and that the negotiations with the Federal Republic on this point have been and continue to be very difficult. In accordance with the suggestion made in the last paragraph of your letter, your interest in this matter has been brought to the attention of Mr. McCloy.

As regards the status of the liquidation of German assets in Switzerland, you are undoubtedly aware that the Government of Switzerland has, for various reasons, not implemented the Swiss-Allied Accord of 1946, and that discussions have been held by the Three Allied Powers with Swiss and German authorities looking to a modification of the Accord of 1946 under which the Allied Powers would receive an immediate lump-sum payment in settlement of their claim to one-half of the proceeds of the liquidation of German assets in Switzerland. It is the intention of the Three Allied Powers to make available from funds thus received an additional seventeen million francs for the relief and rehabilitation of non-repatriable victims of Nazi action.

Liquidation of German assets in Portugal is currently in progress, but in accordance with the terms of the draft agreement with Portugal the distribution of the proceeds of such liquidation must await settlement of the Allied claim for the restitution of looted gold now in Portuguese possession. The Department is continuing its efforts to resolve this problem in order that the distribution of the proceeds of German assets in Portugal, including the payment of one-hundred million escudos for the benefit of non-repatriable victims of Nazi action, may proceed.

Sincerely yours,

For the Secretary of State:

/s/ Jack K. McFall
Assistant Secretary

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CONGRESS OF THE UNITED STATES

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House of Representatives
Washington, D. C.

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Y

April 15, 1952

The Honorable
Dean G. Acheson
Secretary of State
Department of State
Washington 25, D. C.

Dear Mr. Secretary:

I write in connection with the proposed contractual arrangements with Germany.

It is my understanding that questions are still outstanding regarding German assets in Switzerland and Portugal. Part of the proceeds of these assets are to be used for the benefit of non-repatriable victims of Nazi action.

I should appreciate your assurance that the proposed contractual arrangement conforms to the obligation — undertaken in 1946 — to devote the appropriate portion of these assets to the relief and rehabilitation of such persons. Presumably, both the Occupying Powers and the German Government will wish this to be the case.

I will also appreciate such information as may be available on liquidation of German assets in Switzerland and Portugal, and the present status of negotiations with those countries on use of the proceeds.

You may wish to bring this letter to the attention of Mr. McCloy.

Sincerely,

/s/ J. K. Javits, M.C.

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YIVO RG 347.17
AJC (GEN 10)
Box 295 File 2
LAW OFFICES

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Swiss Allied

LANDIS, COHEN, RUBIN, SCHWARTZ AND GEWIRTZ
1832 JEFFERSON PLACE, N. W.
WASHINGTON 6, D. C.
STERLING 5905

JAMES M. LANDIS
WALLACE M. COHEN
SEYMOUR J. RUBIN
ABBA P. SCHWARTZ
STANLEY GEWIRTZ
GEORGE J. SOLOMON

August 13, 1951

CONFIDENTIAL

Dr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York, New York

Dear Eugene:

Re: Swiss-Allied Accord

I have been waiting for a few free moments to give you a further report on the present status of negotiations with respect to the 17,205,000 Swiss francs which are still due to us under the terms of the Swiss-Allied Accord and the Paris Reparation Agreement.

1. When I was in Switzerland, I took some time off and went to Bern to discuss the Swiss-Allied negotiations with various people there. In Bern I talked with Marcel Vaidie, Financial Counselor of the French Embassy in Bern, Charles Owsley, First Secretary of the American Legation, and Michael Dux of the Department of State and Fred Stern of HICOG. The latter two people were in Bern for the negotiations which were going on at the time of my visit. I also made several phone calls to various people before and up to the time of my departure from Switzerland, and have had a conference, since my return to Washington, with Mr. Ross McClelland of the Department of State.

2. The situation is that the Germany Government - that is, Chancellor Adenauer - has refused to go along "on a voluntary basis" with the liquidation of German assets in Switzerland and utilization of these assets for the purposes of the Swiss Accord. Subsequent to the last previous negotiations which ended in March or April, there were discussions in France and Bern and a modus operandi was worked out with the technicians of the German Government. This tentative agreement was, however, scuttled by Adenauer apparently on the ground that it would be impossible from the political point of view.

In the absence of ability to persuade Adenauer to go along or in the absence of willingness to exert sufficient pressure on him, the Allies were thrown back on the recourse of issuance of a High Commission law. At one stage it was apparently the subject of some debate as to whether such a law could or should be issued. However, by the time the Allies arrived in Bern for their most recent negotiations it had apparently been decided that a High Commission law could and should be issued.

At this time, however, the Allies committed what I consider to have been the tactical mistake of consulting Dr. Stucki, the chief Swiss negotiator, about whether a High Commission law would be acceptable to the Swiss. Stucki, of course, replied that he was extremely dubious. He indicated that the Swiss would like to have the voluntary concurrence of the Germans. Stucki therefore

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was doubtful whether the imposition of the law in question on the Germans would satisfy Swiss sensibilities in this regard. He indicated that the Swiss in effect wanted a German signature on whatever was agreed. The obvious answer is, of course, that the Germans are not and never have been parties to any negotiations with respect to German external assets, that the Accord was signed in 1946 between the Allies and the Swiss and that nothing has changed the legal situation with respect to external assets since then. I believe that had the Allies actually issued the law and then presented it to Stucki, he could have done nothing about it and would have been compelled to accept it. However, that is water already under the bridge.

3. Thus, the negotiations in Bern were ended without anything conclusive having happened, with Stucki still studying the Allied proposal for the issuance of a High Commission law and the Allies committed to some further discussions with the Germans on this problem. I may add incidentally that a number of the German technicians not concerned with the German political problem are rather anxious for the new arrangement to go through since Germany will get a substantial number of Swiss francs out of the liquidation agreement which was prepared last Spring.

The matter is being considered further both in Frankfurt and in Washington and there continues to be a certain measured optimism here about the eventual outcome. I think that this measured optimism is rational, although I am not sure just when the money will actually be in hand. The reasons for being optimistic about the eventual outcome came out during the course of my recent conversation with Mr. McClelland of the State Department and as a result of certain statements which he made in response to suggestions from myself.

a). In the first place, the Swiss themselves have shown some indication of desire actually to wind the matter up. There are substantial numbers of Swiss claimants against the funds which have been immobilized now for over five years. The Swiss Government itself is under considerable pressure to reach an agreement with the Allies to liquidate and utilize the Swiss 1/2 for payment of these Swiss claims.

b). I suggested to McClelland that the Swiss arguments were absurd since the Japanese Treaty of Peace contemplated that the Allies would not allow external assets to remain in the hands of countries like Japan and Germany, but would use them for reparations or similar purposes. (You will recall that the Japanese Treaty consigns such assets to the International Committee of the Red Cross for payments to ex-prisoners-of-war.) I therefore suggested to McClelland that it might be appropriate for the Allies to make further representations to the Swiss and point out that the Japanese precedent as well as previous declarations with respect to Germany insured that there would be eventual disposition of the German external assets along similar lines and that, pending such eventual solution, the payment to the IRO could be made. McClelland indicated that he thought it might be difficult to get the British and French to concur but that it was quite clear that what I said was correct. He pointed out that the negotiations with the Germans on the surrender of the reserve powers in Germany would clearly take up, inter alia, the question of the German external assets and that it was the unshakeable position of the Allies that German external assets would have to be disposed of in accordance with previous Allied commitments; namely, the Washington Accord, the Paris Reparation Agreement and the Five Power Agreement.

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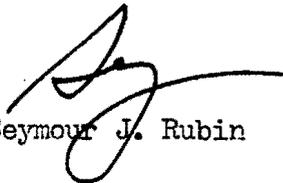
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McClelland indicated that these facts were being pointed out to the Germans at present and that it was expected that within the next month or so something could be worked out both vis-a-vis the Germans and with Stucki which would result in the implementation of the Accord and, as a first step, in payment of the sum due to the IRO.

4. Finally, I was assured by M. Vaidie of the French Embassy in Bern that the Allies had again during the present negotiations reiterated the primacy of the obligation to make payment to the IRO.

I shall, of course, be following this situation closely and shall keep you informed.

Sincerely yours,



Seymour J. Rubin

cc: Mr. Leavitt

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YIVO RG 347.17
AJC (GEN 10)
Box 295 File 2
LAW OFFICES

LANDIS, COHEN, RUBIN, SCHWARTZ AND GEWIRTZ
1832 JEFFERSON PLACE, N. W.
WASHINGTON 9, D. C.
STERLING 5905

JAMES M. LANDIS
WALLACE M. COHEN
SEYMOUR J. RUBIN
ABBA P. SCHWARTZ
STANLEY GEWIRTZ
GEORGE J. SOLOMON

June 18, 1951

Restitution - Switzerland
CP Rubin - Nat. office
Rec'd 4/11/51
Switz
Swiss Allied Ac.

JUN 20 1951

Dr. Eugene Hevesi ✓
The American Jewish Committee
386 Fourth Avenue
New York, New York

Dear Eugene:

Re: Washington Accord

Last week I called Simon's attention to the long article which appeared on the financial pages of the N. Y. Times a week or so ago. This article indicates a considerable number of difficulties with respect to the Washington Accord and therefore with respect to the possibility of our getting the now much promised 17 million Swiss francs.

The Times article fairly accurately outlines the situation. That situation is that agreement was reached between the Allies and the Swiss with respect to all phases of the Accord with, however, the proviso that the "details" of compensation for the German owners of property would have to be worked out in Frankfurt. The State Department now expects, as the article indicates, a cable from Frankfurt saying that the Bonn Government has refused to go along. This refusal is despite the clear statements of HICOG officials who participated in the Bern negotiations that there would be no difficulty with the Germans. It raises the question of what comes next.

The State Department position has been that, if the Germans refuse to go along, the High Commissioners would promulgate a law providing for a scheme of compensation of the German owners, as provided in the Bern negotiations. It now turns out, however, that this may be no solution to the problem. Stucki, the Swiss representative on these matters since 1946, has stated, in one of the final meetings of the Bern conference, that he would implement the agreement only on the basis of voluntary cooperation of the Germans. This attitude apparently reflects Swiss fears that a future German government might repudiate the obligation if it were forced on them by High Commission orders.

As is indicated in the Times article in its last paragraphs, there have been some discussions recently about an entirely new method of settlement; namely, a lump sum settlement. In 1948, when I was in Switzerland on behalf of the State Department, I had an informal meeting with M. Max Petitpierre, then and now the Foreign Minister of Switzerland, which was arranged by some influential Swiss friends. At that time I explored, entirely informally, the possibility of a lump sum settlement and wrote a memorandum on the subject. The idea intrigued Petitpierre but he said that Stucki would have to be consulted on the matter; and Stucki was committed it turned out to the method which has now been pursued for three years since that meeting of mine.

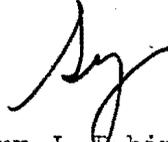
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Roger Williams, the State Department official who is handling this matter now, indicates that my old memorandum has now come to the top of the files and that an independent approach was made to him by certain Swiss banking interests who allege that they have consulted Stucki and allege that Stucki is now interested in the possibility of a lump sum settlement. Williams is fairly optimistic about the possibility of something being worked out along these lines. I am reserving my judgment on this point. I think that the procedure should be for the Allies to present Stucki with a draft of a High Commission law which would take the matter out of the hands of the Germans and thus to put the burden on Stucki of refusing to implement the Bern agreement on the basis of a High Commission law rather than a German Government law. If Stucki then turns down implementation on this basis, it is my opinion that the way will be much better prepared for negotiations on a bulk sum settlement. It is my understanding that the Department of State is proceeding on this basis and is instructing HICGO to draft a High Commission law immediately.

Needless to say, I am greatly disappointed at this last hitch in the proceeding, particularly since the previous word from HICOG officials had been that the Bonn Government would go along with the proposed settlement. We seem still to have some real chance, however, to accomplish our objective and I shall, of course, continue to keep you informed. In view of the importance of these developments, I am sending a copy of this letter to Mr. Moses Leavitt.

Sincerely yours,



Seymour J. Rubin

cc: Mr. Leavitt

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YIVO RG 347.17
AJC (GEN 10)
Box 295 File 2
LAW OFFICES

Rubin-Wash. Office
Ch. Hevesi Assets in
Switzerland
Switzerland
Switzerland

LANDIS, COHEN, RUBIN, SCHWARTZ AND GEWIRTZ
1822 JEFFERSON PLACE, N. W.
WASHINGTON 6, D. C.
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JAMES M. LANDIS
WALLACE M. COHEN
SEYMOUR J. RUBIN
ABBA P. SCHWARTZ
STANLEY GEWIRTZ
GEORGE J. SOLOMON

May 29, 1951

CONFIDENTIAL

Dr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York, New York

Dear Eugene:

Re: Swiss-Allied Accord

1. It is expected that agreement will be reached on the compensation feature within the next two weeks. The Germans (Bonn) have now assented in principle. The State Department expects the details to take about two weeks.

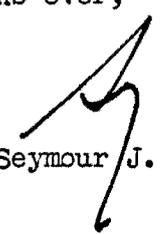
2. The French had dragged their feet on a new request to the Swiss for immediate payment to the IRO, after the new accord is signed. They have now come along, and this point is settled.

3. It has been agreed, tentatively, that any heirless German assets which turn up will go to the IRO. The non-German heirless assets remain in an unsettled condition.

4. It has been agreed that the assets of persecutees who are outside of Germany as of the date of the new accord (approximately June 1951) will be exempted from liquidation. I have not been able to get any exemption for persecutees who are still now in Germany. I think, as a matter of fact, that there are very few Jewish persecutees with property in Switzerland who are still in Germany. There may be some non-Jewish persecutees in this category. The Swiss argue that if these persons are still in Germany, they have elected, in effect, to stay there and should be content with the D'Mark compensation which they will receive.

Further deponent sayeth not.

As ever,


Seymour J. Rubin

cc: Eli Rock
Jerome Jacobson

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RUBIN AND SCHWARTZ
ATTORNEYS AT LAW

SEYMOUR J. RUBIN
ABBA P. SCHWARTZ

YIVO RG 347.17
AJC (GE N 10)
Box 295 File 2

PHONE: REPUBLIC 0504
CABLE ADDRESS: RUBINLEX

1822 JEFFERSON PLACE, N.W.
WASHINGTON 6, D.C.

April 17, 1951

Dr. Eugene Hevesi ✓
The American Jewish Committee
386 Fourth Avenue
New York, New York

Dear Eugene:

I have received some recent news in connection with the current negotiations in Bern.

1. The Allied negotiators have now reached an agreed position with respect to the status of persecutee assets in Switzerland. You will recall that I have been carrying on a running correspondence with the Department of State for the past two year arising out of the fact that the Swiss have uniformly considered persecutees as "German nationals" even though they lost their rights of German citizenship; and they have therefore considered the assets of such persons as being assets of "Germans in Germany". I have worked, over the past six or eight months, very strenuously on the people in the State Department urging them at the next Allied-Swiss conference to persuade the British and French and subsequently the Swiss that this was a mistaken view. I have written a number of legal memoranda for the people in State both of a formal and informal sort and based partially on my own experience and recollections as Randolph Paul's delegate in the Swiss-Allied negotiations in the Spring of 1946, all of which showed that the Swiss interpretation was not only unjust, but legally erroneous.

It is my understanding that the negotiations in Bern have been side-tracked for awhile on the main issue of compensation of the German owners of the property while the various high commissioners in Germany were looking over alternative schemes of payment. During this interval, the American delegate has taken the matter of the status of persecutee assets up with the British and French and has persuaded them of the merits of its position, and a joint Allied position was presented to the Swiss. The latest indications are that the Swiss will probably accede to the Allied position in one form or another. I understand that Mr. Ott, head of the Swiss Compensation Office, has raised only questions of detail such as how a persecutee status is to be established rather than questions of principle; and it may be that a test somewhat like that contained in the Trading with the Enemy Act will be used.

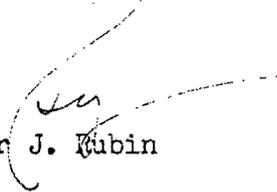
2. There have also been some discussions on the subject of heirless assets in Switzerland. It is my understanding that these discussions are much less far advanced than the discussions on the question of the status of persecutees. However, there have been some conversations looking toward the establishment of an escrow account into which funds believed to be heirless will be paid for eventual transfer for refugee rehabilitation and resettlement purposes. About all that can be said on this particular score is that the discussions so far have been encouraging, although there have been no concrete results.

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If agreements are reached on one or the other of these points, and if the proposed meeting in Paris does come about, it would seem to be desirable that there be a meeting with the Swiss to clear up the operation arrangements for the agreements in principle, and particularly to set up procedures under which the facilities of the Jewish organizations could be utilized in working out a determination of persecutee status.

Sincerely yours,


Seymour J. Rubin

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YIVO RG 347.17
AJC (GEN 10)
Box 295 File 2

Heirless Assets in Switzerland
OK Israel Govt
OK Bern Govt. office
4/24/51
Swiss
Swiss Govt.

The Secretary of State presents his compliments to His Excellency the Ambassador of Israel and has the honor to refer to the Ambassador's note LA/4/20/2, dated March 12, 1951, regarding the question of heirless assets in Switzerland.

The signatories of the Swiss-Allied Accord of May 1946 resumed discussions in Bern on March 5, 1951 with a view to reaching a final settlement of the long-standing problem of the disposition of German assets in Switzerland. These discussions are still in progress, and the specific question of heirless assets has not yet been taken up. The American Delegation, however, is under instructions to seek a solution to this question along the lines of the proposals advanced by the Government of Israel in the Ambassador's original note of June 15, 1950.

The continuing interest of the Government of Israel in the matter, as expressed in the Ambassador's note of March 12, 1951, has been brought to the attention of the American Delegation at Bern, and it is hoped that a solution to the problem of heirless assets in Switzerland consonant with the views of the government of Israel may ultimately be obtained.

The current discussions in Bern are expected to continue for some weeks, and the Department is not at present in a position to predict what their outcome will be. However, the Department will not fail to notify the Ambassador of Israel of any developments pertinent to the question of heirless assets.

Department of State,

Washington, April 10, 1951.

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RUBIN AND SCHWARTZ
ATTORNEYS AT LAW

YIVO RG 347.17
AJC (GEN 10)
Box 295 File 2

Rubin Wash. Office
CR. Restitution - Switzerland
PHONE: REPUBLIC 0504
CABLE ADDRESS: RUBINLEX

SEYMOUR J. RUBIN
ABBA P. SCHWARTZ

1822 JEFFERSON PLACE, N.W.
WASHINGTON 6, D.C.

February 27, 1951

Dr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York, New York

Dear Eugene:

Re: Swiss-Allied Accord

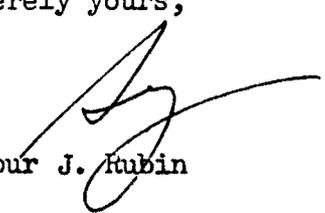
A United States mission is departing today for Bern to take up discussions on the subject of the Swiss-Allied Accord. The American delegation will once more be headed by John Carter Vincent, American Minister to Switzerland. The discussions with the Swiss are scheduled to begin on or about March 5, and it is thought by Vincent that they may last no longer than one week.

During the past several weeks we have worked very earnestly but quietly to insure that the subject of the payment of the refugee funds is once again at the head of the agenda. We have also been using such argumentative ability as we had to persuade the State Department to separate the issue of the fulfillment of the provisions of the Swiss-Allied Accord from the related problem of intercustodial claims. It will be recalled that it was on the subject of intercustodial claims that difficulties arose at the meeting which was scheduled to begin in July 1950 and which broke up on the intercustodial issue.

It is understood that the intercustodial and Accord issues are now definitively separated. It is also understood that the American delegation will once again press the refugee matter as a primary issue.

Abba Schwartz will be present in Bern during the negotiations and will keep us informed. We hope very much that this time we will be able to secure the remaining funds due under the Swiss Accord amounting to about 17,200,000 Swiss francs.

Sincerely yours,


Seymour J. Rubin

340658

C O P Y

YIVO RG 347.17
AJC (GEN 10)
Box 295 File 2

DEPARTMENT OF STATE
WASHINGTON

July 14, 1950

Dear Mr. Blaustein:

Thank you for your letter of June 27 concerning certain problems under the Swiss-Allied Accord of May 1946 in which the American Jewish Committee has an understandable and continuing interest.

The position of the Department of State is essentially the same as that of your Committee with respect to the three issues you mention: 1) obtaining a further advance from the Swiss Government of some 17 million francs for the International Refugee Organization; 2) excluding the assets in Switzerland of former racial persecutees from liquidation under the Accord; and 3) making the heirless property in Switzerland of Nazi victims available for the rehabilitation and resettlement of persecutees.

The Quadripartite Conference on the Swiss-Allied Accord which was scheduled to begin in Bern on June 22 was canceled because of the imposition by the Swiss Government of conditions which were not acceptable to our Government. The Department of State nevertheless will continue to press for an equitable solution of these problems.

Sincerely yours,

/s/ Dean Acheson

Mr. Jacob Blaustein, President,
The American Jewish Committee,
American Building,
Baltimore 3, Maryland.

340659

AMERICAN BUILDING
BALTIMORE 3, Md.

June 27, 1950

Honorable Dean Acheson
Secretary of State
State Department
Washington, D. C.

MAR 28 1950

Dear Mr. Secretary:

I write in connection with certain matters which are of considerable interest to the American Jewish Committee and in which the Department of State has previously taken a sympathetic and active interest.

It is my understanding that negotiations are now proceeding in Bern, Switzerland between the Government of Switzerland and the Governments of the United States, Great Britain and France. These negotiations concern problems arising out of the Swiss-Allied Accord of May 1946 on German External Assets and related problems. Involved in the Accord are certain problems which are of high importance to this organization and to others interested in humanitarian activities.

1 - The Allied Governments and the International Refugee Organization have requested an advance from the Swiss Government of approximately 17 million Swiss francs to be paid over to the International Refugee Organization and to be used for rehabilitation and resettlement of the unfortunate victims of Nazi action. Despite the negative answer which I understand has been received by the Allies from the Government of Switzerland, I trust that the question will once again be raised in the discussions in Bern and that the urgent needs of the present situation will be strongly pressed on the Swiss Government.

2 - The Swiss have construed the phrase contained in the Accord 'Germans in Germany' to include persecutees who were present in Germany during the period of the war. These persons were 'Germans' only by the most remarkable stretching of the concept of nationality. I have been assured by authorities in German law that persecutees, particularly racial persecutees, were not considered by the Germans to have German nationality in any real sense. Moreover, these persons were in Germany, for the most part, only in the sense that they were kept in concentration camps in Germany. I am advised that the negotiating history of the Swiss-Allied Accord indicates an intent to exclude the assets of persecutees from seizure pursuant to the

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Box 295 File 2

Accord, and the Legal Adviser of the Department of State has advised Mr. Seymour J. Rubin, representing the American Jewish Committee, that this is the interpretation placed on the Accord by the Department of State.

I should like to reiterate the continued and strong interest of the American Jewish Committee in this point and to emphasize that we consider the matter to be important not only from the point of view of the sums which might be involved and the injustice of depriving persecutees of their small savings, but also from the point of view of principle. The United States has stood firm on the principle that the assets of persecutees are not the assets of our enemies; and this principle has been enacted into law in the United States. This point should be insisted upon in the discussions.

3 - The question of so-called heirless property will, it is understood, also be discussed in Bern. New evidence of the attitude of the United States toward this problem is found in the recent unanimous action of the Interstate and Foreign Commerce Committee of the House of Representatives in adopting S. 603, a bill which would return heirless property in the United States to a qualified successor organization so that such property could be used for rehabilitation and resettlement of persecutees. This bill has already been passed unanimously by the Senate. It is hoped that the United States will insist that similar, equitable treatment be applied to the problem of heirless assets in Switzerland.

The past efforts and understanding of the Department of State in connection with these problems has been much appreciated. It will be extremely gratifying if the United States can press its point of view with respect to these problems on the other participants in the negotiations in Bern and, in the interest of justice and equity, work out a settlement which will resolve these various problems in the manner above suggested.

Sincerely yours,

Jacob Blaustein,
President

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JDC
Swiss Heirless
JUN 21 1950

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Box 295 File 2

Minutes of Meeting between Four Organizations and
Representatives of the Israeli Embassy regarding Question of Swiss
Heirless Assets

June 14th, 1950

Present were: Dr. Moshe Keren, Charge d'Affaires, Israeli Embassy
Mr. A. Liverhant, First Secretary, Israeli Embassy
Dr. Nehemiah Robinson, WJC
Dr. Eugene Hevesi, AJC
Dr. Joseph J. Schwartz, JDC
Mr. Eli Rock

The meeting was called for the purpose of discussing the approach which should be taken at this time vis-a-vis the U.S. State Department and the Swiss government on the question of heirless Jewish assets in Switzerland. Several months ago, at the request of the four organizations, the Israeli government had postponed a demarche which it was then contemplating making directly to the Swiss government on this question. In the interim it had been hoped by the four organizations that the situation in the U.S. might permit new approaches to the State Department and resultant new approaches from the State Department and the other Western powers vis-a-vis the Swiss.

To begin the meeting, Dr. Keren, on behalf of the Israeli Embassy, pointed out that in point of fact nothing had happened during the last several months to justify optimism insofar as approaches by the Jewish organizations under the Five-Power Agreement were concerned. To the contrary, he pointed out that only additional delay had been caused and that time was fast running against the Jewish interests in this entire matter. He and Mr. Liverhant pointed out further that the Swiss were apparently contemplating new discussions with other Eastern European governments with a view to possible agreements along the lines of the Polish-Swiss accord. Under the circumstances, the Israeli Embassy in Washington had now been instructed by its home government to approach the U.S. State Department with a request that the U.S. government support a new set of direct discussions between the Israeli government and the Swiss on this matter. The Israeli Embassy had also been instructed to attempt to secure the agreement of the Jewish organizations to this step; it was explained that if such a step were made it would involve the temporary withdrawal of the Jewish organizations, pending and during such discussions. The purpose of the meeting therefore was to afford the representatives of the Israeli Embassy an opportunity to clarify the matter with the Jewish organizations and to obtain their agreement.

Dr. Keren indicated that he had already received word that the Jewish Agency was in agreement with this approach. Dr. Schwartz, on behalf of the JDC, made it clear that the JDC was also willing to stop aside at this time. Dr. Hevesi, while

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stating that such an approach--in the event it were not successful--should be without prejudice to subsequent renewed approaches from the Jewish organizations directly to the State Department, also expressed agreement on behalf of his organization.

In the case of the World Jewish Congress, Dr. Robinson indicated that he could not at this time commit his organization but that he would attempt to clear the matter immediately. At the same time, while indicating that the Agency and the JDC were more directly concerned in the matter and that in all likelihood the Congress could not stand in the way even if it wished to, Dr. Robinson raised some question as to the over-all advisability of the approach suggested by Dr. Keren and Mr. Liverhant. He pointed out in the first place that this type of a "national" approach by the Israeli government would strengthen the hand of the Swiss government insofar as possible "national" deals by the Swiss with other Eastern European countries were concerned; in short, any departure from the "international" approach hitherto pursued under the Five-Power agreement would increase the danger of new agreements similar to the Swiss-Polish accord. Dr. Robinson also expressed doubt whether once this approach by the Israeli government and the Jewish organizations were taken, it would again be possible for the Jewish organizations to take the matter up directly with the State Department, assuming failure of the Israeli efforts. By way of reply, Mr. Liverhant pointed out that there actually was no choice in the matter. Nothing had been accomplished in the past and the possibilities for future success under the previously-used approaches were minimal. At the same time, if new and drastic approaches were not taken, there was a real danger that the bulk of the heirless assets would be consumed by new agreements between the Swiss and other Eastern European governments. While the present proposal certainly could not insure that all of the heirless assets would be won for Jewish purposes, it would at least offer the possibility of a portion of the assets being saved. Dr. Schwartz also emphasized the unlikelihood of any further success through continued use of the traditional approaches on this matter.

Dr. Robinson indicated that one of the difficulties which stood in the way, insofar as the World Jewish Congress was concerned, was the fact that contemplated meetings are scheduled with the Swiss-Jewish communities for the purpose of organizing new and vigorous approaches by those organizations to their government. According to Dr. Robinson, the Swiss-Jewish communities have apparently undergone a revival of interest in this entire matter and give signs of being prepared to approach their government more strongly than ever before. It was the consensus of the remaining participants in the meeting that such an approach by the Swiss-Jewish communities should definitely be discouraged, particularly at this time, but that in any event, because of the time factor, there was no choice but for the Israeli government to proceed along the lines discussed above. It was understood that this approach would be taken and the hope was expressed by the remaining members present that the Congress would not only give its formal support to this approach but would also undertake immediate steps to discourage the planned actions of the Swiss-Jewish communities.

The specific steps contemplated at this time will include an immediate approach by the Israeli Embassy to the U.S. State Department. In this approach the Israeli Embassy will indicate to the State Department that it now wishes to approach the Swiss directly on this entire matter and that the Jewish Agency and the JDC are in

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agreement; in addition, it is expected that the IRO will also sanction such an approach. Based on its interest under the Five-Power accord, as well as on other and political considerations, it is hoped that the State Department will lend its complete support to this new approach and will itself make arrangements with the Swiss suggesting the direct Swiss-Israeli discussions. It is further hoped that the State Department will obtain the support of the French and British governments for this new line. Finally, in view of the fact that the Swiss-Israeli discussions will, among other things, be based on the Five-Power agreement rather than being contradictory to it, and will make use of some of the same general arguments and supports previously used by the Jewish organizations in their representations on this matter, it is expected that the way will remain open for subsequent renewed approaches by the Jewish organizations directly to the State Department--assuming that is necessitated by failure of the Swiss-Israeli talks. Pending the outcome of the Swiss-Israeli discussions, it was understood that the above-mentioned agreement includes a commitment to take no further action and make no further approaches on the matter. It was also understood that there would be no publicity.

340665

W. Blaustein
CR Rubin-Wash. office

YIVO RG 347.17

June 19, 1950 AJC (GEN 10)
Box 295 File 2

Mr. Jacob Blaustein
American Building
Baltimore, Maryland

Dear Mr. Blaustein:

The American Jewish Committee has, through me, recently raised a number of matters with the Department of State. Most of these concern the negotiations which are about to begin in about a week in Switzerland on the subject of German assets in Switzerland. I believe that it would be extremely helpful if you could spend an hour or two one afternoon late this week, perhaps on Thursday or Friday, or early next week in Washington, have lunch with me and afterwards visit Mr. Theodore Achilles, Deputy Director of the Bureau of European Affairs in the Department of State. The matters which I propose to discuss with Mr. Achilles are the following:

1. The long-standing request of the United States, Great Britain and France, and of the International Refugee Organization, that the Swiss Government advance approximately 17 million Swiss francs out of the proceeds of German assets in Switzerland to the IRO for distribution to the Joint Distribution Committee and the Jewish Agency for Palestine.
2. Our request to the Allies and the Swiss that persecutees in Germany not be classified as "Germans in Germany" for purposes of the Swiss-Allied Accord on German assets. We have asked that the assets of such persecutees be released to these persons. The Swiss have taken the attitude that persecutees who were in Germany until the end of the war are Germans in Germany and their assets may be seized under the Accord.
3. The situation of heirless assets in Switzerland. The Swiss have already concluded one agreement on heirless assets with Poland. We should do everything possible to emphasize the gravity of this situation and to prevent the Swiss from taking any further similar steps.

In addition, it would be extremely helpful to discuss with Mr. Achilles the situation of the looted property in Italy. The British have proposed that this property be turned over entirely to the Italians. The State Department has so far supported our proposal that it be split between the IRO and the Italians, the JDC and the JAPP getting the bulk of what goes to the IRO. It would be extremely helpful, however, if something could be done to strengthen the views thus being expressed by the State Department.

If you prefer, I think I could probably arrange to have a luncheon meeting with Mr. Achilles. Under any circumstances, I think we should have at least an hour to discuss these matters prior to the meeting with him.

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I have sent this letter to you pursuant to my conversation of June 19th with your secretary. I should be glad to discuss these matters with you at greater length at any time convenient for you.

Sincerely yours,

Seymour J. Rubin

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Box 295 File 2

RUBIN AND SCHWARTZ
ATTORNEYS AT LAW

PHONE: REPUBLIC 0504
CABLE ADDRESS: RUBINLEX

SEYMOUR J. RUBIN
ABBA P. SCHWARTZ

1822 JEFFERSON PLACE, N.W.
WASHINGTON 6, D.C.

May 4, 1950

Dr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York, New York

Dear Eugene:

I enclose several copies of a self-explanatory memorandum.

This news brings to the fore the question of what kind of representation, if any, we will have in Switzerland when the meeting of the Allies and the Swiss takes place. You will recall that during the meetings in Washington, we were able to achieve a considerable amount by visits to Mr. Thorp and discussion with the various other delegations and that we were able to have such problems as the question of the advance and the situation of persecutees under the Accord at least discussed. My State Department friend raised with me the question as to whether we would have somebody in Bern at the time of the meeting who would be able to discuss these problems and who would act to push the various delegations on these subjects.

This is a matter to which I think your consideration and the consideration of John and Simon should be given. The problem is, of course, complicated by the fact that Isenbergh is no longer available - unless he would be willing to return to Switzerland for a relatively brief period.

Sincerely yours,

Seymour J. Rubin

Enclosures

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MEMORANDUM

I had lunch today with one of the State Department officials working on the problem of German assets in Switzerland. I was confidentially informed that a meeting is scheduled in Frankfurt for the High Commissioners on May 23. At that time, the problem of compensation in Germany of the German nationals whose property is subject to the Swiss-Allied Accord will be discussed.

It is apparently felt here in Washington that the result of this meeting will be to work out a formula which will be acceptable to the Swiss Government and which will solve this particular aspect — now the most important — of the Swiss-Allied problems. If the proposal which is expected to emanate from the May 23 meeting is presented to the Swiss Government, the Swiss Government will issue its invitation to the now long deferred conference which was originally scheduled for September of 1949.

If events move in accordance with these State Department expectations, thus, it would seem that we have a strong chance of obtaining the 17 million Swiss francs from Switzerland within a relatively short period of time.

It is to be hoped that the IRO approach which has recently been made will result in the Swiss making this advance even before solution of other problems under the Accord. If, however, this should not occur, we have been definitely promised by the Swiss that as soon as the general problems under the Accord are settled, the advance will be immediately made.

Seymour J. Rubin
May 3, 1950



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Box 295 File 2

RUBIN AND SCHWARTZ
ATTORNEYS AT LAW

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PHONE: REPUBLIC 0504
CABLE ADDRESS: RUBINLEX

SEYMOUR J. RUBIN
ABBA P. SCHWARTZ

1822 JEFFERSON PLACE, N.W.
WASHINGTON 6, D.C.

April 25, 1950

APR 26 1950

Dr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York, New York

Dear Eugene:

I have a copy of Eli Rock's memorandum of April 20, 1950 addressed to Mr. Leavitt and reporting on Eli's conversation with Nehemiah Robinson.

I do not dispute the conclusion that it might be well for the Government of Israel to wait for another month before making any formal demarche to the Swiss Government. As a matter of fact, the matter has been informally discussed with me by Arthur Liverhant of the Israeli Embassy here in Washington, and I have strongly urged that whatever is done be done only after full exploration of the alternatives and after full preparation and documentation. I have also suggested to Liverhant that the problem be separated into its two aspects:

1. The possible identification, from materials supplied by Israel to the Swiss Government, of assets which might otherwise be mistakenly labelled as heirless and transferred to Poland.
2. The disposition of heirless assets of other than Polish sources.

If this advice is followed and if the Government of Israel moves with care and attempts to construct a well-founded case, there is very little likelihood of a demarche within the next four weeks. Moreover, it would seem to me to be desirable for the Israelis to start out by raising the question of identification of assets which might otherwise be covered by the Polish agreement, and to proceed with the other discussions on the basis of the Swiss reaction to the first set of discussions.

Nevertheless, I feel called upon to make certain probably pessimistic comments on Dr. Robinson's suggestions as contained in paragraph 2 of Eli's memorandum of April 20. It seems to me that the fundamental fallacy in Dr. Robinson's reasoning is the belief that very much influence can really be brought to bear by the State Department on the Swiss above and beyond that influence which has already been brought to bear.

The State Department is itself, vis-a-vis the Swiss, in the position of having tried unsuccessfully for a period of almost four years to achieve implementation of a binding agreement. The Department has used every tactic which it has at its disposal to get the Swiss to implement the Washington Accord of 1946. There have been innumerable conferences on a tripartite and quadripartite basis, notes have been exchanged, informal meetings have been held in Washington and in Bern, etc., and the Department has not been able to get the Swiss to implement the Accord

despite the fact that the Department most seriously and earnestly wants that Accord implemented.

Moreover, if we turn to an issue closer to our interests than the overall implementation of the Accord, we find that the Department has exerted the strongest pressure in connection with the proposed advance of 17 million Swiss francs. The cooperation of the State Department on this matter has really been superb. You will recall that we have been able to persuade the Department to propose to the British and French that this matter be taken up at the quadripartite conferences which took place last summer. Then we were able to persuade the Department to take the matter up as a separate issue with the British and French and press them to agree to a demarche addressed to the Swiss. Subsequently, the Department renewed its appeal to the British and French and was able to obtain their agreement to a demarche to the Swiss. In the course of so doing we were able - without any difficulty whatsoever - to get the Department to raise the figure from 14 million to 17,205,600 Swiss francs. Then, almost without urging on our part, we were able to get the Department to send a request to the American Legation in Bern to file a further request with the Swiss; and Minister Vincent was able to persuade the British and French to go along with him without reference back to their own home offices. This matter has been discussed formally and informally in Washington and in Bern and at all levels in the two governments. Even so, we have not as yet been able to get this advance.

It seems to me that the history of these two situations, the general implementation of the Accord and the 17 million Swiss franc advance, indicates that it is not in fact possible for the State Department to push the Swiss any more than the Swiss are willing to be pushed. Of course, American and Allied demarches have a considerable effect, but there is also a considerable reluctance to be overcome and an extremely stubborn man in control on the other side. All of this indicates to me that the fundamental assumption of Dr. Robinson's reasoning is not correct.

Even if the State Department were to go all out on our behalf, there is little that could be done. The Department did in fact make representations in connection with the heirless property problem - to no avail. Moreover, from the point of view of the United States, the heirless property situation is a weak one in view of the fact that the commitment, if any, is a very loose and general one, guaranting at the most sympathetic consideration for proposals with respect to heirless property, and the American interest is a somewhat distant one.

Finally, I must say a word about the suggestion that the Swiss economy being dependent upon American business good will and that something might be done along the lines of arousing the public, particularly the business public in the United States. Businessmen on both sides of the Atlantic, in my opinion, will not be influenced one whit by the most successful public campaign which we might possibly imagine in this connection.

In the first place, it will be impossible to generate very much interest in this problem or in any public campaign which will have for its objective the denunciation of the admittedly bad Swiss tactics. In the second place, business is conducted on an entirely different basis and businessmen will buy Swiss watches if they continue to afford opportunities for profits. In the third place, the public campaign which was undertaken during the negotiations of the Washington

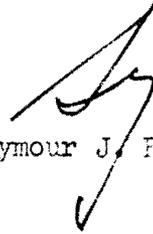
YIVO RG 347.17
AJC (GEN 10)
Box 295 File 10

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Accord in the Spring of 1946 resulted merely in name calling on both sides of the ocean and the creation of an atmosphere of bad feeling that made negotiation of the most simple problems a difficult task and which resulted merely in making the stubborn Swiss more stubborn.

I enclose several extra copies of this letter for your possible use.

Sincerely yours,

A handwritten signature in dark ink, appearing to be 'Seymour J. Rubin', written over the typed name.

Seymour J. Rubin

340671

YIVO RG 347.17
AJC (GEN 10)
Box 295 File 2

APR 20 1950

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PHONE: REPUBLIC 0504
CABLE ADDRESS: RUBINLEX

RUBIN AND SCHWARTZ
ATTORNEYS AT LAW

SEYMOUR J. RUBIN
ABBA P. SCHWARTZ

1822 JEFFERSON PLACE, N.W.
WASHINGTON 6, D.C.

April 18, 1950

Dr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York, New York

Dear Eugene:

I have some news on the question of the Swiss advance of 17 million Swiss francs to the IRO.

1. The Allied request for such advance has been considered by Mr. Stucki and by the Swiss committee which has been set up to administer the Washington Accord. These functionaries have unfortunately unanimously rejected the request.

2. The matter has not as yet been considered by the Swiss Federal Council. About ten days ago, Mr. Donald Kingsley and Abba Schwartz called on Monsieur Petitpierre, the Swiss Foreign Minister and President. They had a lengthy discussion with M. Petitpierre in which he disclosed to them the facts as stated above, emphasizing, however, that the Federal Council had not as yet reached a decision on the matter. Kingsley and Schwartz stressed very much the humanitarian aspects of the Allied appeal and the necessity for receiving funds soon. They also pointed out how effective a gesture it would be for the Swiss to make these funds available in advance of the due date. This was a reply to a point made by M. Petitpierre that negotiations with respect to settlement of outstanding disputes on the Accord having reached a conclusion, the funds would be immediately forthcoming.

3. After the meeting with Petitpierre, Kingsley and Schwartz called on the American Minister in Bern, Mr. Vincent. They saw Mr. Vincent and Mr. Charles Owsley of the Legation both of whom were very much interested in the report of the conversation with Petitpierre and promised to do what they could to obtain a favorable decision from the Swiss.

4. I understand that Mr. Kingsley has had discussions in Geneva or in Bern about all of the above with Mr. Rice of the JDC and presumably with Adler-Rudel of the Jewish Agency. He has asked these gentlemen to keep the matter fairly confidential because it would be unpropitious for the Swiss to get the impression that the IRO and the Jewish relief agencies were always informed of the discussions of one or the other with the Swiss Government.

5. Meanwhile, Abba is pursuing the matter in Switzerland via the agency of certain mutual friends of ours who are prominent private Swiss citizens. I understand that he is arranging a dinner meeting between Petitpierre, Minister Vincent and certain of these friends for one day during the present week.

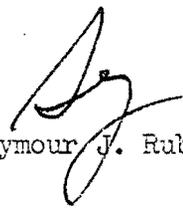
Although the above does not look entirely encouraging, it may be pointed out that the situation prior to the time when the Swiss finally came through

with the 20 million francs looked almost exactly the same.

I have discussed the matter here in Washington, particularly with Mr. DeRham of the Swiss Legation. I am informed by him that the State Department has semi-officially informed the Swiss that they are preparing an answer on the rate of exchange problem which has been one of the bones of contention in connection with the Accord, and that they feel that the answer will be "entirely satisfactory" to the Swiss. If this is so, it is possible that implementation of the Accord may begin fairly soon. However, such implementation will probably have to be worked out in meetings which are to take place in Switzerland sometime in the future, these being the meetings which have been postponed from last September. It is too bad that these meetings have been postponed as long as they have both from the point of view of the delay and the eventual outcome and because I would very much have wanted Moose Isenbergh, as an AJC representative, to be present during the period of the meetings.

I enclose for your convenience several copies of this letter.

Sincerely yours,


Seymour J. Rubin

*I also enclose a confidential copy
of the 120 Side Memoirs left by
Kingsley with Pettitziens.*

340673

AIDE MEMOIRE

Mr. J. Donald Kingsley, Director General of the International Refugee Organization, accompanied by Mr. Abba Schwartz, Special Adviser on Reparations, had the honor to be received today by M. Max Petitpierre, Conseiller Federal charge du departement politique.

Mr. Kingsley explained that he had asked to be received by the Federal Councillor in order to review the main aspects of the relations between the Federal Government and the IRO. It was a source of great pleasure to him to be able to observe that these relations had always been of the most cordial, and the Organization had every reason to congratulate itself not only on the membership of Switzerland in the IRO, but also on the arrangements whereby Switzerland had become host to its world headquarters.

Mr. Kingsley expressed satisfaction in the understanding which he had reached with Minister Zutter in the course of the recent session of the General Council of the Organization concerning the Supplementary Period of IRO operations. As the Organization was now to continue its repatriation and resettlement work for an additional nine-month period beyond 30 June 1950 - the date originally envisaged for its closure - but to cease its ordinary care and maintenance functions, it had become necessary to make arrangements with individual governments for the continuation under governmental auspices of essential assistance to refugees in need. Under an authority granted by the General Council he had now been able to arrange for a return to the Federal Government of a major proportion of its contribution for the Supplementary Period, or a sum of Swiss Francs 1,303,000, which in fact covered the social assistance expenditure which it was anticipated would have to be made for that period by the Federal Government on behalf of refugees in Switzerland who were within the mandate of IRO. In return he was pleased to have the acknowledgment of the Federal Government that it would take responsibility for providing an appropriate legal and social status for such refugees.

Mr. Kingsley referred also to the situation of refugees in the several areas of operation of the Organization who would require institutional care after the cessation of IRO services but who, being handicapped, could not hope for resettlement abroad under ordinary immigration programs even though they might have dependents who

were economically self-supporting. The Swiss Delegate to the General Council had shown a most gratifying interest in the problem and was well abreast of the broad planning involved. The Director-General hoped shortly to be able to present proposals to the Federal Government along the lines of purely preliminary discussions already held with the Swiss Delegation, whereby Switzerland might join other Member Governments in contributing to the solution of this special problem. He hoped that he might have the support of the Federal Councillor in this matter.

Turning to a subject to which he wished to make special reference, Mr. Kingsley noted that the International Refugee Organization, as successor to the IGCR and PCIRO, in addition to its broad humanitarian task of reestablishing refugees, has been charged with administering certain special rehabilitation and resettlement programs for the benefit of non-repatriable victims of German action, as provided in Article 8 of Part I of the Final Act of the Paris Conference on Reparation, and the Five Power Agreement of June 1946. He recalled that the implementation of these special programs which were established by the Allied Governments to benefit non-repatriable victims is tied in with and dependent upon Article V of the Annex to the Washington Accord of 25 May 1946, which permits the three Allied Governments, the United States, the United Kingdom and France, to draw up to 50 million Swiss francs from the proceeds of liquidation of German property, against their share, to be devoted to the rehabilitation and resettlement of non-repatriable victims of German action.

Mr. Kingsley recalled that in June 1948 his predecessor had requested a payment of 20 million Swiss francs, as an advance upon the liquidation of the property referred to in Article V of the Annex of the Accord, in order to meet the pressing refugee needs at that time. Mr. Kingsley drew attention to the fact that the Federal Government in granting the previous request for 20 million Swiss francs, had generously gone further than its obligations required, since, under Article V of the Annex to the Accord, the Federal Government is not obliged to make payments to the International Refugee Organization, as successor to IGCR, for the assistance of non-repatriable victims of German action, until liquidation of German assets in Switzerland has begun. Mr. Kingsley then pointed out that the need which prompted his predecessor to appeal for a payment of 20 million Swiss francs in 1948 is even more pressing today as the International Refugee Organization is now planning its early liquidation, although

the special problem of the refugees covered by the Reparation program remains acute.

Mr. Kingsley informed the Conseiller Federal that while the Washington Accord permitted the Allied Governments to draw up to 50 million Swiss francs from the proceeds of the liquidation of German property, against their share, to be devoted to the rehabilitation and resettlement of non-repatriable victims of German action by the IRO, he had been informed that the Allied Governments do not intend to draw up to this full amount for the IRO, since a share of the proceeds of German assets in other countries have been allocated to the IRO. Instead of drawing the full 50 million Swiss francs for the IRO, Mr. Kingsley stated that the Allied Governments are desirous that IRO receive not a balance of 30 million Swiss francs, but instead a balance of 17,205,600 Swiss francs which will be the final amount drawn by the Allied Governments under Article V of the Annex to the Accord.

Mr. Kingsley then recalled that the Federal Government in June 1947 had generously offered to the three Allied Governments to make payments under Article V in advance of liquidation of German property, if requested to do so. Thereafter, in 1948, recognizing the urgency of the refugee problem and the need for extraordinary measures for the solution of the problem, it voluntarily made available the sum of 20 million Swiss francs in 1948. Having generously made available the 20 million Swiss francs in 1948, Mr. Kingsley again expressed his hope that the Federal Government would respond to this request for the urgently needed and final payment to IRO of 17,205,600 Swiss francs. He pointed out that he could not and was not desirous of commenting upon those difficulties which from time to time have been reported in the press concerning technical problems relating to the Washington Accord, since IRO is not a party to the Accord and has no claim upon the Federal Government arising from the Accord. The fact remained, he stated, that many innocent victims of the War were unfortunately continuing to suffer and to remain homeless because of those technical difficulties which to date have delayed the payment of the further sum to the IRO.

In conclusion, Mr. Kingsley re-emphasized his awareness that the Federal Government is not obligated to make payments under Article V until there has been liquidation of German assets. He recalled the humanitarian actions and prompt response of Switzerland to all previous urgent appeals for refugee assistance. He therefore expressed his very earnest hope that the Federal Government on the basis of the special

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considerations he had mentioned, would approve the transfer of the sum stated to the account of the International Refugee Organization as a special measure to assist in meeting the immediate and urgent needs of the non-repatriable victims of German action under this program. He said that the availability now to the IRO of the final payment to be made to IRO of 17,205,600 Swiss francs, to be charged against the amount the Allied Governments are permitted to draw from the proceeds of liquidation of German property under Article V of the Annex of the Accord, will make all the difference between success or failure in these programs and all the difference between a useful and happy life, free from the memory of past horrors, for these refugees, or on the other hand, a lifetime of despair.

Mr. Kingsley thanked the Conseiller Federal for his courtesy in receiving him and request an early and favorable reply.

5 April 1950

340677

June 8, 1949

Dear Mr. Braunschvig:

I enjoyed our discussion the other day very much, and we are all very grateful for the assistance you are so kindly extending to us.

Enclosed I am sending you Mr. Rubin's memorandum on the other problem in connection with which we asked your kind intervention, the problem of German Assets in Switzerland. I am also enclosing a copy of my own brief memorandum on the present status of the negotiations on this subject in Washington. In the light of the latter, Mr. Rubin's findings appear to be somewhat outdated. Nevertheless, you may feel that the intervention which you were so kind as to offer might be helpful in obtaining French support to the idea of the advance payment even without overall agreement with the Swiss.

My feeling is that the French may support this request to the extent of $3\frac{1}{2}$ instead of $7\frac{1}{2}$ million dollars, meaning that they would be for the subtraction of the 100 million escudos expected from the Portuguese.

By the way, Mr. Jerome J. Jacobson, counsel for the JDC in Paris, informs me that on the subject of the French zonal law Professor Cassin was kind enough to send a supporting letter to M. Parodi. Jacobson tried to obtain a copy of this letter from the Alliance and even from Prof. Cassin's private secretary. The latter told Jacobson that the letter was a personal communication from the Professor in his capacity as President of the Conseil d'Etat and that the secretary had no copy. I would appreciate your kindness in trying to obtain from Prof. Cassin some information as to how a copy of this letter can be placed at the disposal of Mr. Jacobson.

Thanking you in advance for whatever you may undertake in this matter, I am, with warm regards,

Sincerely yours,

Eugene Hevesi

Mr. Jules Braunschvig
c/o Mr. Marcel Franco
61 Broadway
New York 6, N.Y.

340678

Paris
Hirs
Encs.

June 6, 1949

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Y

YIVO RG 347.17
AJC (GEN 10)
Box 295 File 2

Subject: German Assets in Switzerland

1. Under the Paris Reparation Agreement of January 1946, it was agreed that the sum of \$25,000,000 out of German assets in neutral countries should be paid to what was then the Intergovernmental Committee on Refugees for the "relief and rehabilitation of non-repatriable victims of German action." Under the supplementary Five Power Agreement also reached in Paris in 1946, it was agreed that the said \$25,000,000 would be distributed 90% to the Joint Distribution Committee and the Jewish Agency for Palestine and 10% to non-Jewish charitable organizations, the 90%-10% proportion having been established in recognition of the preponderance of Jewish victims of German action.
2. In the Swiss-Allied Accord of May 25, 1946, it was agreed that the Allies might request an advance of 50,000,000 Swiss francs for these refugee purposes. In the subsequent Swedish-Allied Accord of July 18, 1946 the sum of 50 million kroner was allocated for the same purpose. This amount was subsequently paid by the Swedish Government to the International Refugee Organization and has been distributed to the JDC and the JA. Subsequently an agreement on German assets was entered into with Portugal, which agreement has been initialed but has not been put into effect. Under this agreement the sum of 100,000,000 escudos was to accrue to the IRO for the purposes above mentioned.
3. It was anticipated at the time of the Paris Agreement that the escudos would be available in the immediate future. Had they been made available the total amounts due to make up the sum of \$25,000,000 would, of course, have been reduced by that amount, roughly \$4,000,000. However, the escudos have not as yet been forthcoming and it does not appear that they will be forthcoming in the immediate future.
4. In 1947 and 1948 the United States took up with the United Kingdom and France the question of asking the Swiss Government for an advance. It was necessary to ask for an advance because the Swiss-Allied Accord had not been implemented because of disagreement between the Allies and the Swiss on the rate of exchange upon which compensation of previous owners was to be based, etc. Eventually the request was presented to the Swiss Government but was limited to 20 million Swiss francs. This sum was turned over by the Government of Switzerland to the International Refugee Organization and in turn distributed according to the above pattern.
5. The United States Government has, on the occasion of the present negotiations between the Allies and the Swiss, been approached with a view toward obtaining the additional 30 million Swiss francs during the course of the present negotiations. A problem presented is that if the 30,000,000 Swiss francs were to be advanced and the 100 million escudos were then paid in, the International Refugee Organization would have received approximately \$29,000,000 rather than \$25,000,000. Nevertheless, it has been urged on the United States that the full 30 million Swiss francs should be requested, it being pointed out that the possibility of receiving the escudos was apparently slight and the possibility of receiving them in the near future was even more remote. The United States has acceded to this suggestion and at a meeting held last week Mr. Thorp, Assistant Secretary of State, presented this viewpoint of the United States to the British and French.

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6. The British and French have privately indicated sympathy but so far as can be learned are still awaiting the official reaction of their governments to the American proposal. It has been learned also that the Swiss Government has informally indicated sympathy to the possibility of an advance.

7. The matter is being handled by Mr. DePanafieu of the French Ministry of Foreign Affairs on the French side. It might well be helpful if influential persons in France could discuss this matter with the Ministry of Foreign Affairs and/or the Minister of Finance and obtain the support of the French Government to the request to the Swiss Government for an advance of 30 million Swiss francs. It has been indicated that the agency concerned may be willing to commit themselves to turn back any excess which might accrue by reason of the Portuguese escudos being unexpectedly made available, provided those escudos were made available within the reasonably near future and at a time that the escudos were a convertible currency.

8. Other problems which have been taken up during the current negotiations concern the question of whether Jewish "residents" of Germany are to be considered as "Germans in Germany" within the meaning of that phrase as used in the Swiss-Allied Accord. Until now, the American Government is the only government which has argued that persecutees should be exempt and their property should not be liquidated under the terms of the Accord.

THE AMERICAN JEWISH COMMITTEE
NEW YORK, N. Y.

MEMORANDUM

TO: Simon Segal May 26, 1949

FROM: Eugene Hevesi

SUBJECT: German assets in Switzerland

Sy Rubin phoned me from Detroit with the information that his contacts in State told him that on Tuesday, May 24, Mr. Thorp made a very forceful and effective presentation of our claim for the settlement of this question. Both the British and French delegations seemed to be impressed, and while the British did raise a couple of questions, they emphasized that they were doing so merely in order to clear up the situation.

While no express decision was formulated, Sy's friends feel that the British and French will join the U.S. in pressing the Swiss for at least the $3\frac{1}{2}$ million dollars. This does not mean that the advancement of $7\frac{1}{2}$ million dollars from Swiss-held assets is entirely out of the question, but the likelihood is that the British and French will not give it the same forceful support as Mr. Thorp.

There is, of course, a chance that the overall negotiations would fail and, in fact, there is some doubt about their eventual outcome. Such a failure would automatically defeat our own objective, at least for the time being.

EH:rs

cc: Mr. Blaustein
Dr. Gray
Judge Forman
Mr. Rock
Paris Office

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COPY

YIVO RG 347.17
AJC (GEN 10)
Box 295 File 2

THE AMERICAN JEWISH COMMITTEE
386 Fourth Avenue New York 16, N. Y.

To: Dr. Eugene Hevessy

Date: May 5, 1949

From: Seymour J. Rubin

Subject: German Assets Negotiations - Switzerland

As I have previously indicated to you on the telephone, I have given the information contained herein to Mr. Leavitt of the Joint Distribution Committee. For the record, I am sending you this memorandum.

1. Pursuant to our appointment, I met with Mr. Covey T. Oliver, Chief, Division of Economic Property Policy, and Mr. Willard L. Thorp, Assistant Secretary for Economic Affairs, Department of State, at 9:30 A.M. on May 5, 1949. I took up with these gentlemen the question of a further advance out of German assets in Switzerland to complete the sum of 25 million dollars promised for refugee purposes under the Paris Reparation Agreement.

Mr. Thorp asked for a fill-in on the background of this problem and I briefly sketched for him the terms of the Swiss-Allied Accord relevant to this problem, the terms of the Swedish Accord and the action which had been taken under it, the advance of 20 million Swiss francs which had already been received, and the terms of the draft Allied-Portuguese Accord. I also pointed out that there were no further sources since the Spanish Accord had no provision for payments for refugee purposes and since there was now no possibility of agreements with Turkey and Eire.

2. Mr. Oliver referred to our previous conversations on this subject and stated that the official State Department position, which was being checked with Mr. Thorp later that morning, was to support the request for a further advance as part of the attempt to solve all of the current problems pending under the Accord. Mr. Oliver stated that he had looked further into the matter of the Portuguese Accord and had found that there was a flat commitment to make 100 million escudos available to the International Refugee Organization under the terms of that Accord and that it would be extremely difficult to take the position in the Swiss negotiations that any sum in excess of approximately $3\frac{1}{2}$ million dollars should be advanced since obtaining a larger sum would open up the possibility of an over-draft on behalf of the refugee organization.

3. I discussed this problem of an "over-draft" at some length with Messrs. Oliver and Thorp and made the suggestion that the first position of the United States should in any case be that the full $7\frac{1}{2}$ million dollars should be requested from the Swiss. I said that if problems with respect to the Portuguese Accord and a possible over-draft came up, it seemed to me that it would be entirely possible to work out some arrangement which would insure against more than 25 million dollars being paid over to the refugee organizations under the terms of the Paris Reparation Agreement. I indicated the possibility of an agreement that the escudos made available under the Portuguese Accord might, if received within a reasonable period of time, be accepted against a commitment to repay the necessary amount in Swiss francs to compensate for any over-draft.

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4. In the course of stressing the urgency of this matter, I indicated that these negotiations were perhaps the last chance to obtain these funds. Mr. Thorp alluded to the fact that even if an advance were not obtained presumably, unless negotiations broke down entirely, funds would become available in the future as property in Switzerland was liquidated. I indicated that this was a possibility but pointed out that it would be extremely desirable if funds could be made available quickly in view of the urgency of the refugee situation. I indicated that I had talked with officials of the organizations directly concerned with this matter and that it was possible that they would wish to have a meeting with Mr. Thorp or other officials in the Department to lay before the Department the details as to their operations and as to their necessities which I did not possess.

5. Messrs. Thorp and Oliver agreed with me that:

(a) The United States would press the British and French for a request directed to the Swiss for a further advance. It was intimated that the United States would suggest that the request be for 7½ million dollars. My own feeling is that if there is much resistance from the British and French on either this amount or on the general question of an advance, the United States position may be that the request should be merely for 3½ million dollars.

(b) The refugee situation was such that an attempt should be made to get an advance regardless of whether arrangements for a solution of other problems under the Accord called for a settlement taking a greater period of time. In this connection, Mr. Thorp alluded to the possibility that the other Allied delegations may say that no priority should be given to refugee payments over reparation payments, but he indicated that he would press for such a priority. Mr. Thorp also inquired whether the Paris Reparation Agreement had set 25 million dollars as a flat figure or whether that figure might be affected by the total amount of assets available. It was agreed between Mr. Oliver and myself that the 25 million dollars represented a flat figure and even if the amounts available from German assets in the neutral countries fell considerably short of what had been expected, the commitment to pay 25 million dollars still existed. In this connection, I pointed out to Mr. Thorp the desirability of discharging this commitment in order to get rid of at least one of the problems existing in connection with the German assets settlements.

6. It was my impression that neither Mr. Thorp nor Mr. Oliver has received the letter from Mr. Tuck of the International Refugee Organization which, I had been informed, had been sent from Geneva; nor had they received the letter from Senator McGrath which his office informed me was sent to Mr. Acheson on May 4.

7. Meetings with the British and French are to begin at 4:30 in the afternoon of May 5. Meetings with the Swiss may be postponed somewhat because Mr. Stucki, the head of the Swiss delegation, is ill with phlebitis and will be unable to attend for a few days. The Swiss Minister has suggested to Mr. Oliver that the delay in Mr. Stucki's arrival need not delay the actual beginning of the negotiations since "technical" matters could be taken up by the technical experts. Mr. Oliver's view is that there are very few technical problems, most of such problems being also problems of principle. It is my impression that the opening of the negotiations may be delayed somewhat beyond the May 10 date originally scheduled.

cc: Mr. Isenbergh
Mr. Wolfson

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SEYMOUR J. RUBIN
ATTORNEY AT LAW

YIVO RG 347.17
AJC (GEN 10)
Box 295 File 2

PHONE: REPUBLIC 0504
CABLE ADDRESS: RUBINLEX

1822 JEFFERSON PLACE, N.W.
WASHINGTON 6, D.C.

February 1, 1949

Dr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York 16, N. Y.

Dear Eugene:

In the course of discussions with some of the people at State, I have discovered, somewhat to my amazement, that the problem of the status of persecutees in Germany under the Swiss Allied Accord on German Assets has never been resolved.

The Agreement of 1946 between the United States, United Kingdom and France on the one side and Switzerland on the other side, provided for the control by the Swiss and eventual liquidation, with the proceeds to go mainly to reparations but partially for the relief of displaced persons, of the property in Switzerland of "Germans in Germany". In view of the provisions of the Paris Reparation Agreement and of the Washington Accord itself, it was never believed by any of the Allied negotiators, and in fact the thought never crossed their minds, that the term "Germans in Germany" would apply to religious, racial or political persecutees within Germany, particularly those who had lost their German nationality under the discriminatory German laws. Nevertheless the Swiss Government, I believe primarily for the purpose of providing an excuse for not implementing the Accord, took the position that the Accord literally construed meant that the Swiss Compensation Office would have to block and liquidate the property in Switzerland of such "Germans in Germany" as German Jews, concentration camp internees, etc. The United States Government has taken a strong position in opposition to this view in the Joint Commission, established in Bern which was to supervise the administration of the Accord, but the question still remains unresolved.

I had thought that the problem had been settled favorably some time ago. I now intend to pursue this matter vigorously here in Washington and to find out the details of the position taken by the Swiss, which I consider not only not of justice, but also on the basis of my personal knowledge as to what was intended, to be a thorough perversion of the terms and the intent of the Washington Accord. I am informed confidentially that negotiations are under way between the Allies and the Swiss, looking toward a conference to be held some time within the next three months at which an attempt will be made to settle all problems growing out of the Accord. The other night

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I informally met with Mr. John Carter Vincent, United States Minister to Switzerland, and had a long talk with him about the general problems of the Accord and the attempt which will be made to solve them shortly. I intend to follow this matter very closely and may, if I think it tactically desirable, call upon the Swiss Minister here, Mr. Bruggmann, whom I know very well and tell him of the Committee's interest in this problem.

This letter is more in the nature of an informational report than anything else, both to you and to Moose. I shall of course keep you informed as to any steps I may take and any suggestions which I may have with respect to action, particularly action which the Paris office might take.

Sincerely,



Seymour J. Rubin

cc: Mr. Isenbergh

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YIVO 26 347.17
AM Jew. C.M (GEN 10)
Box 295, NYC 4

**Declaration Regarding Forced Transfers of Property
in Enemy Controlled Territory**

Released to the press January 5

The text of a declaration which has been made by the United States and certain others of the United Nations, regarding forced transfers of property in enemy-controlled territory, follows:

"The Union of South Africa, the United States of America, Australia, Belgium, Canada, China, the Czechoslovak Republic, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, Greece, India, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Yugoslavia and the French National Committee:

"Hereby issue a formal warning to all concerned, and in particular to persons in neutral countries, that they intend to do their utmost to defeat the methods of dispossession practiced by the governments with which they are at war against the countries and peoples who have been so wantonly assaulted and despoiled.

"Accordingly the governments making this declaration and the French National Committee reserve all their rights to declare invalid any transfers of, or dealings with, property, rights and interests of any description whatsoever which are, or have been, situated in the territories which have come under the occupation or control, direct or indirect, of the governments with which they are at war or which belong or have belonged, to persons, including juridical persons, resident in such territories. This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected.

"The governments making this declaration and the French National Committee solemnly record their solidarity in this matter."

DEPARTMENT OF STATE BULLETIN
January 9, 1943.

p. 21-22

340686

September 16, 1946

Dear Mr. Secretary:

We refer to the joint request of the American Jewish Joint Distribution Committee and the Jewish Agency for Palestine, contained in their letter to the Secretary of State, dated July 12, 1946, with respect to certain Hungarian Jewish property located in the American zone of occupation in Austria as set forth in that letter.

Assuming consent by the official representative organizations of Hungarian Jewry to the proposed solution, we support the request in question. In doing so, we assure that the American Jewish Joint Distribution Committee and the Jewish Agency for Palestine, in dealing with said property in the capacity of custodians or trustees, will be required:

1. To exhaust all available means of identification of individual assets, and to effect restitution of all identifiable property to their rightful owners, whether individuals or Jewish communal organizations.
2. The proceeds of all unclaimed and masterless property are to be used, in full working agreement with the official representative organizations of Hungarian Jewry, for the rehabilitation and resettlement, primarily of Hungarian Jews, inside and outside of Hungary.

Respectfully yours,

John Slawson
Executive Vice-President

The Honorable James F. Byrnes
Secretary of State
Department of State
Washington, D.C.
JS:lh

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