

**Presidential Advisory Commission on
Holocaust Assets in the United States**

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**PRESIDENTIAL
ADVISORY COMMISSION
ON HOLOCAUST ASSETS
IN THE UNITED STATES**

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Executive Director**

PRESIDENTIAL ADVISORY COMMISSION ON HOLOCAUST ASSETS IN THE UNITED STATES

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CINCINNATI, OHIO

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*replied to
Kagan*

May 28, 1954

Honorable Arthur G. Klein
House of Representatives
Washington, D.C.

Dear Mr. Klein:

I am writing you on behalf of the American Jewish Congress and the World Jewish Congress with respect to a matter which we feel should be called to your attention.

Before dealing with the problem we have in mind, I should like to make some reference to myself. For the past year, I have been the Administrator Director of the World Jewish Congress. For two and a half years prior thereto, I was a general counsel of the United States War Claims Commission. You may recall the occasions upon which I testified before the Interstate and Foreign Commerce Committee in connection with bills in which the War Claims Commission was interested. You are also undoubtedly familiar with House document 67, 83rd Congress, which is a supplementary report on claims arising out of World War II. It is I who directed the study and wrote the report for the Commission. I mention this background because I feel that you should know that I have a fairly comprehensive knowledge of the entire war claims problem and of the problems relating to the assets seized by the United States Government as enemy property, under the Trading with the Enemy Act.

The problem about which I want to write to you relates to the property seized under the Trading with the Enemy Act and belonging to persons who were persecuted by the Nazis and who died without leaving any heirs. Since shortly after the war, an effort has been made to get legislation enacted to turn this property over to a successor organization representative of the group to which the persecutees belonged for the benefit of the surviving victims who are members of that group. I am sure, Mr. Klein, that I need not belabor the question by pointing out that the only group which was persecuted by the Nazis en masse were Jews and that the heirless property arises almost exclusively with respect to the property of Jewish families which were totally annihilated by the Germans. *question*

The history of the effort to treat the property of persecutees who are technically enemy nationals different from other enemy property is *that* ~~impossible~~.

340843

May 28, 1954

As early as 1946, Congress enacted an amendment to the Trading with the Enemy Act which in effect provided that the property belonging to enemy nationals who were persecuted by the enemy for religious, racial, or political reasons was to be returnable to the original owners or their survivors. At the time this amendment was passed, it escaped the notice of those who sponsored the legislation that many of the former owners of the property were members of families which were totally annihilated by the enemy. Consequently, no provision was made for the devolution of the heirless property. In other words, while property belonging to German Jews who survived the Hitler fury was returnable to them or their survivors, property which belonged to a German Jew who was killed by the Nazis along with every member of his family became available for the payment of war claims of Americans asserted against the Nazis. Obviously, this is a result which is difficult to reconcile with one's sense of justice. It is to correct this deficiency in the law which inspired the introduction of the heirless property bills in the Congress. At this juncture I would only invite your attention to the fact that abroad whenever the opportunity presented itself, the United States took the unequivocal position that heirless property of persecutees must be used for the relief and rehabilitation of surviving victims of persecution. I dealt with this aspect of the question in an article I wrote for the issues of the Congress Weekly dated June 1, 1953. For your information, I am sending you a copy of that issue.

The record of the effort to get Congress to enact an heirless property bill with respect to the property belonging to persecutees who died heirless is as follows: Bills of this nature passed the Senate in the 80th and 81st Congress. In the 82nd Congress, the bill came upon the consent calendar of the Senate but failed of enactment because of an objection on the part of Senator Chavez. These bills never were presented to the House for a vote, despite the fact that in the 81st Congress the Interstate and Foreign Commerce Committee reported the bill favorably (Report Number 2338, 81st Congress, Second Session). As a member of the staff of the War Claims Commission, I could not help but be aware of the source of the objection to the heirless property measure. The objections stem principally from those who felt that all of the enemy assets should be used for the payment of the prisoner of war claims. This group felt that any attempt to reduce the potential war claims fund should be resisted since it might lead to the whittling down of the fund by other measures. This group was apparently unpersuaded by the argument that the 1946 amendment to the Trading with the Enemy Act removing property of persecutees who were either alive or who had heirs, as a source for the payment of war claims. They were also unpersuaded by the fact that it is the least to say unconscionable to use the property of deceased victims of persecution to pay the prisoner of war claims. I really believe, Mr. Klein, that those who have opposed the heirless property measure would have withdrawn their opposition if they really thought through the moral aspects of the heirless property bills.

As you may know, on May 17th the Senate passed S2420, the heirless property bill, on its consent calendar. The sponsors of this measure were Senators Langer, McCarran and Hennings. I had occasion to talk to Senator McCarran about this bill and I do not exaggerate when I tell you his eyes welled up with tears when he realized what is involved. It is he who is entitled to a major part of the credit for getting the Subcommittee of the Senate Judiciary Committee to vote out the bill, for the action of the full committee.

340643A

May 28, 1954

The question remains how to get companion bills in the House passed at this session of the Congress. Among the bills referred to your Sub-committee is HR5675 and HR 5952 introduced by Wolverton and Crosser, respectively. We are informally advised that there is the thought among some of the members of your Sub-committee that these heirless property bills should be considered as part of the whole problem of war claims and action on them should be postponed until the Committee has the opportunity to consider the recommendations contained in the Supplementary Report of the War Claims Commission to which I have referred above. It is not because I am interested in the heirless property bills that I say that these bills have not the remotest connection with the recommendations of the War Claims Commission contained in its Supplementary Report. I know every word of that report and am certain that both a close and cursory reading of that report will persuade you that there is nothing in the report which relates to the problem as to whether certain property should be treated as enemy property. The heirless property bills do not seek to establish a war claim but simply stand for the proposition that the property of persons who were persecuted by the enemy and who died leaving no heirs should not be used to pay war claims but should instead be used for the relief and rehabilitation of the surviving victims of persecution.

I believe it is significant that the War Claims Commission recommended favorable action on the heirless property bill introduced in the 81st Congress and that it entered no objection to the Senate bill S2420, the bill which just passed the Senate. As far as I know, this is the only bill that would reduce the potential size of the War Claims fund, which the War Claims Commission during its entire life, favored.

To supplement what I have said above, I should like to refer you to a copy of a statement which I presented to the Sub-committee of the Judiciary Committee on April 14th at its hearing on the Senate measure.

My reason for writing you is, of course, obvious. I know of no one else on your Sub-committee to whom I can turn who will give this entire problem the sympathetic attention I know it will receive from you. The American Jewish Congress and the World Jewish Congress are positive that once you become familiar with the aims of the heirless property bill, you will do everything in your power to persuade your associates on the Sub-committee of the Interstate and Foreign Commerce Committee to convene at the earliest possible date and approve the HR5675, HR5952 or preferably, S2420.

I understand that from time to time you come to your New York office. Will you extend me the privilege of a personal conference in New York at your earliest opportunity. With highest esteem, I am,

Sincerely,

Abraham S. Hyman
Administrative Director

ASH:em
Encl.: 2

340844

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, Inc.

Suite 800

270 Madison Ave., New York 16, N. Y.

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Committee
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B'nai B'rith
Board of Deputies of British Jews
British Section, World Jewish Congress
Canadian Jewish Congress
Central British Fund
Conseil Representatif des Juifs de
France
Council for the Protection of the Rights
and Interests of Jews From Germany
Delegacion de Asociaciones Israelitas
Argentinas (D.A.I.A.)
Executive Council of Australian Jewry
Jewish Agency for Palestine
Jewish Labor Committee
South African Jewish Board of
Deputies
Synagogue Council of America
World Jewish Congress
Zentralrat der Juden in Deutschland

May 28, 1954

Mr. Abraham Hyman
World Jewish Congress
15 East 84th Street
New York, N. Y.

Dear Mr. Hyman:

Please find enclosed copy of letter relating to
the Trading With the Enemy Act transmitted to me by
Representative Wolverton, which was inadvertently
omitted in the mailing which I sent you yesterday.

Sincerely yours,



Saul Kagan
Secretary

SK:rko
Encls.

340845

CHARLES A. WELVERTON, N. J., Chairman
 ROBERT GIBSON, OHIO
 JOHN W. WHELAN, N. Y.
 ROBERT W. HALE, OHIO
 JAMES I. DOLLIVER, IOWA
 JOHN W. WHEELER, MISSOURI
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 KENNETH D. WARDMAN, N. Y.
 STEVEN M. DENNETT, N. Y.
 THOMAS H. FULLER, CALIF.
 JOHN J. LAYTON, CALIF.

Congress of the United States
House of Representatives
 Committee on Interstate and Foreign Commerce
 Room 1334, Long Office Building
 Washington, D. C.

I have your recent communication with regard to S. 541—
 To extend limitation benefits under the War Claims Act of 1943
 to employees of contractors with the United States.

This is one of several bills relating to war claims. The
 War Claims Commission has submitted to this Committee a sup-
 plemental report pursuant to Section 8 of the War Claims Act,
 making general recommendations with regard to the payment of
 war claims suffered by American citizens. These recommenda-
 tions are now being reviewed by the Bureau of the Budget. The
 Committee hopes to receive a report from the Bureau of the
 Budget at an early date and then will be in a better position
 to take up bills relating to war claims.

I have just appointed the following Subcommittee to fur-
 ther consider all bills pending before the Committee to amend
 the War Claims and Trading With the Enemy Acts:

- | | |
|-----------------------------|-------------------------|
| Hon. Carl Hinshaw, Chairman | Hon. Arthur G. Klein |
| Hon. John V. Beasley | Hon. Peter P. Mack, Jr. |
| Hon. Paul F. Schenck | Hon. Harley O. Staggers |
| Hon. Joseph L. Carrigg | |
- Chairman Welverton and Cong. Dresher staff hold hearings

Sincerely yours,

Charles A. Welverton
 Charles A. Welverton,
 Chairman.

CAN
 E.J.Lhg

DRAFT 5/24/54

Bernard Katzen, Esq.,
625 Madison Avenue
New York, N.Y.

Dear Bernie:

You will recall that I wrote you in January of this year concerning a bill relating to the disposition of heirless property of victims of Nazi persecution, which was vested under the Trading with the Enemy Act.

You will be pleased to know that ~~the bill~~ cleared the Senate ~~which~~ passed the bill. I am enclosing for your ready reference an excerpt from the Congressional Record containing the text of the bill and reporting the action of the Senate.

You can well appreciate the great concern which the organizations have in assuring the passage of the companion bills in the House before adjournment of Congress. There are presently pending in the House two identical bills, HR 5675, introduced by Congressman Charles A. Wolverton (Rep. N. J.), and HR 5952, introduced by Congressman Robert Crosser (Dem. Ohio), the Chairman and ranking Minority Member of the House Interstate and Foreign Commerce Committee, respectively.

These bills are presently before ^{the} ~~the~~ Sub-committee of the Interstate and Foreign Commerce Committee which is headed by Congressman Carl Hinshaw (Rep. Cal).

I would deeply appreciate it if you could give this matter your personal attention in order to bring about the passage of legislation which received the unanimous support of the Senate and certainly implements

340847

No. 2- Bernard Katzen, Esq.

May 24, 1954

a principle of the highest moral order. We shall, of course, be happy to make any additional information available to you either in Washington or in New York.

Sincerely,

Encl.

340847A

178
C. J. ...
May 21, 1954

Senator Everett Dirksen, Chairman
Subcommittee on Trading with the Enemy Act
Committee on the Judiciary
Washington, D. C.

Dear Senator Dirksen:

The major Jewish organizations in the United States were tremendously pleased to learn that S. 2420 was approved by the Senate. This, we assure you, is a victory for a great moral principle for which you may well claim a major part of the credit. Both from what I learned from Mr. Randolph Bohrer, and from my own contact with you during the period that I testified at the hearing of the Subcommittee at which you presided, I recognized the sincerity with which you approached the problem presented by the bill and, on returning to New York, conveyed my impressions to the representatives of the Jewish organizations. They all join in expressing their appreciation to you.

I gather that we will encounter some resistance to the measure within the House Interstate and Foreign Commerce Committee, to which the companion bills, introduced by Senators Wolverton and Grosser, were referred. It would seem that Congressman Hinshaw has, at least tentatively, taken the position that the House counterparts of S. 2420 are part of a larger picture of unsatisfied war claims, and that serious consideration was being given to extend the prisoner of war benefits to American personnel, prisoners of war in Korea. The effect of this position is that not only would the assets of German nationals be used to satisfy the claims of prisoners of war of North Korea and China, but that the assets of families annihilated by the Germans (which are the assets involved in S. 2420) would be used for this purpose. I am convinced that if Congressman Hinshaw really understood the basis for S. 2420, he would enthusiastically support the measure, just as you and Senators Langer, McCarran and Hennings and the rest of your associates on the Senate Judiciary Committee did.

I know that you are under great pressure of work

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in view of your prominent role in the Army-McCarthy hearings. However, in view of the importance of getting the heirless property bill enacted in this session of the Congress, I would ask you to take a few precious minutes of your time to acquaint Mr. Hinshaw with your views on the heirless property bill. I am confident that this prompting will help to move the bill along to its final enactment.

With highest esteem, and warmest personal regards, I am

Sincerely,

ASH:st

Abraham S. Hysan
Administrative Director

340848A

May 21, 1954

Gen. Lucius D. Clay
Continental Can Company
100 East 42nd Street
New York City

Dear General Clay:

I know that you will be pleased to learn that S. 2420, in the support of which you were kind enough to give your excellent statement, passed the Senate unanimously on May 17th. The major Jewish organizations recognize the importance of your contribution in getting the bill approved by the Senate Judiciary Committee, and have asked me to express to you their sincere appreciation for your efforts.

With warmest personal regards, I am

Sincerely,

ASH:st

Abraham S. Hyman

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May 21, 1954

Hon. Pat McCarran
United States Senate
Washington, D. C.

Dear Senator:

I was tremendously pleased to receive your letter of May 10th in which you informed me that the Senate Judiciary Committee had approved S. 2420 with the amendments I had suggested. Since receiving your letter, I have received the glad tidings that the bill had passed the Senate.

I find it difficult, Senator, to summon the words to adequately express my appreciation for your efforts in support of this measure. I not only appreciate your sponsorship of the bill, and the steps you took to see that the bill receive an early hearing, but the magnificent spirit you revealed to me in reacting to the moral principle involved in the measure.

I have communicated to the major Jewish organizations in the United States my own impressions of your contribution in seeing this bill successfully through the Senate, and they have asked me to express their appreciation to you for your very valuable help.

I am happy that our joint interest in the bill gave me the occasion to meet you personally. I shall always cherish this experience.

With highest esteem and warmest personal regards, I am

Sincerely,

ASH:st

Abraham S. Hyman

340850

MEMORANDUM

May 20, 1954.

Attached please find, for your information, excerpt from the Congressional Record of May 17, 1954, dealing with the Amendment of Trading with the Enemy Act.

Saul Kagan.

340851

EXCERPT from the CONGRESSIONAL RECORD

SENATE -- May 17, 1954.

AMENDMENT OF TRADING WITH THE ENEMY ACT

The Senate proceeded to consider the bill (S, 2420) to amend section 32 of the Trading With the Enemy Act, as amended, which had been reported from the Committee on the Judiciary with amendments, on page 2, line 12, after the word "pending", to strike out "Total returns pursuant to this subsection shall not exceed \$3,000,000"; and in line 18, after the word "will", to strike out "sell and dispose of and ", so as to make the bill read:

Be it enacted, etc., That section 32 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, is hereby further amended by adding at the end thereof the following subsection:

"(h) The President may designate one or more organizations as successors in interest to deceased persons who, if alive, would be eligible to receive returns under the provisos of subdivision (C) or (D) of subsection (a) (2) thereof. An organization so designated shall be deemed a successor in interest by operation of law for the purpose of subsection (a) (1) thereof. Return may be made, to an organization so designated, (a) before the expiration of 2 years from the vesting of the property or interest in question, if the President or such officer or agency as he may designate determines from all relevant facts of which he is then advised that there is no basis for reasonable doubt that the former owner is dead and is survived by no person eligible under section 32 to claim as successor in interest by inheritance, devise, or bequest; and (b) after the expiration of such time, if no claim for the return of the property or interest is pending.

"No return may be made to an organization so designated unless it files notice of claim before the expiration of 1 year from the effective date of this act and unless it gives firm and responsible assurance approved by the President that (1) it will use the property or interest returned to it or the proceeds of any such property or interest for use directly in the rehabilitation and settlement of persons who suffered substantial deprivation of liberty or failed to enjoy the full rights of citizenship within the meaning of subdivisions (C) and (D) of subsection (a) (2) hereof, by reason of their membership in the particular political, racial, or religious group of which the former owner was a member and by reason of membership in which such former owner so suffered such deprivation of liberty or so failed to enjoy such rights; (ii) it will transfer, at any time within 2 years from the time that return is made, such property or interest or the equivalent value thereof to any person whom the President or such officer or agency shall determine to be eligible under section 32 to claim as owner or successor in interest to such owner, by inheritance, devise, or bequest; and (iii) it will make to the President, with a copy to be furnished to the Congress, such reports (including a detailed annual report on the use of the property or interest returned to it or the proceeds of any such property or interest) and permit such examination of its books as the President or such officer or agency may from time to time require.

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(over)

"The filing of notice of claim by an organization so designated shall not bar the payment of debt claims under section 34 of this act.

"As used in this subsection, 'organization' means only a nonprofit charitable corporation incorporated under the laws of any State of the United States or of the District of Columbia with the power to sue and be sued."

Sec. 2. The first sentence of section 33 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, is hereby amended by striking out the period at the end of such sentence, and inserting in lieu thereof a semicolon and the following: "except that return may be made to successor organizations designated pursuant to section 32 (h) hereof if notice of claim is filed before the expiration of 1 year from the effective date of this act."

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

H P B

May 19, 1954

Editor
Washington Post
Washington, D. C.

Dear Sir:

On May 17th, the Senate unanimously passed a bill which is designed to give vitality to a new and very important principle in the area of domestic law. The bill, sponsored by Senators Langer, McCarran and Hennings, provides that property in the United States vested under the Trading with the Enemy Act as enemy property, and belonging to enemy nationals who were persecuted by the enemy for racial, religious or political reasons, should be turned over to successor organizations to be designated by the President. The successor organizations are enjoined to use the property thus acquired for the relief and rehabilitation of the surviving victims of persecution belonging to the group of which the deceased owners were members.

The general problem of property in the United States belonging to enemy nationals who were persecuted by the enemy, was dealt with by the Congress shortly after the end of the war. This was done in a 1946 amendment of the Trading with the Enemy Act which provided that such property be returned to the original owners or their survivors. This amendment, in effect, pierced the veil of nationality and took the realistic view that the property in question does not answer the description of "enemy property." If this was realism — and in the absence of that amendment we would, in view of other provisions of the Trading with the Enemy Act, have been left with the rather queer alternative of having such property apply towards the discharge of war claims against the enemy — then the step taken by the Senate is a fine example of humanitarianism.

It should be noted that to fit its measure into our legal system, the Senate had to by-pass the principle, honored in statutes and in our common law, that heirless property escheats to the State where it is situated. The property in question having been vested by the United States, orthodox theory would require that the property

340853

escheat to the Federal Government. In enacting the Hairless Property Bill, the Senate has demonstrated that our legal system is not a straitjacket in which we have no room to maneuver, but is flexible enough to permit novel situations to be dealt with in a way as to give effect to the conscience of the American people. The unprecedented situation presented by the hairless property in question is that the property is hairless because of the genocide practiced by the enemy. The Senate obviously sensed the incongruity of having the law of escheat apply to property of this character, and therefore, adopted the very humane principle that the proceeds of this property should be used to help the surviving victims of persecution.

In a law promulgated by General Clay for the United States Zone of Germany, and in the negotiations involving the satellite treaties, the United States successfully championed the principle embodied in the Senate measure. Although the amount of property affected by the Senate measure is very small as compared with the value of similar property in Germany and in the satellite countries, the moral principle involved in the Senate measure is equally important and, therefore, what the Senate did will be applauded by all who give the domestic measure any thought.

Congressman Kolverton, Chairman of the Interstate and Foreign Commerce Committee, and Congressman Crosser, ranking minority member of that Committee, have introduced separate measures in the House identical with the Senate bill. These measures are under consideration by the House Interstate and Foreign Commerce Committee. It is hoped that this Committee will report out these bills or the Senate measure in time during this session to give the House the opportunity to follow the Senate example. The final enactment of the measure will not only give new hope to the needy victims of persecution, but will formally recognize a moral principle whose appeal is, in my judgment, irresistible.

Sincerely,

ASH:st

Abraham S. Hyman
Administrative Director

H.P.B.
May 19, 1954

Mr. Sidney Hyman
Washington Post
Washington, D. C.

Dear Sid:

I am enclosing a letter addressed to the Editor of the Washington Post. The letter serves a double purpose:

- 1) to inform you indirectly that the Heirless Property Bill passed the Senate, and
- 2) to subtly suggest to the Interstate and Foreign Commerce Committee that it is time for them to act.

Under normal circumstances, I would not bother you with the detail of approaching the person responsible for getting Letters published, with the view of seeing that the Letter get into the Washington Post as soon as possible. I would rely on the law of chance. However, as you and I have learned in the law of contracts, in this case time is of the essence. And because of the importance of getting the bill passed at this session of the Congress, I do not wish to gamble on the laws of probability.

I know I can count upon you to employ your persuasive powers with the key guy on the Washington Post to see that the Letter gets into the Post very soon. We are planning on sending down a delegation to Washington next week consisting of Dr. Goldstein, the oil magnate Blaustein, alias "Money-bags", Sy Rubin and myself, to see both Welverton and Crosser. It would be helpful if my letter got into the Post before our appointment with these eminent Members of Congress.

Rina was delighted to meet Fay. I did not know what to expect in the way of a change in Fay's appearance. I was, therefore, pleasantly surprised to see that Fay looks so well and that the scars are hardly noticeable. Rina and I both thought that Fay was in fine spirits. Altogether, our visit with the two of you was very rewarding.

340854

I thought your book review in the Saturday Review of Literature first-rate. However, I presume that I shall never quite accustom myself to take such fine writing from your pen in normal stride. It is with a real sense of excitement that I look forward to more and more of your writing.

Rina and I wish you both well. We hope you have completely recovered from your cold.

If you succeed in getting the Letter into the Post, will you please send me several copies of the printed Letter.

Devotedly,

LIRGAP
340854A

CONFIDENTIAL

May 18, 1954

MEMORANDUM

FROM: SAUL KAGAN

TO:

American Jewish Committee
American Joint Distribution Committee
Jewish Agency
World Jewish Congress

I hasten to inform you that on May 17th the Senate of the United States passed the Heirless Property Bill on the Consent Calendar, including the amendment which removes the \$3,000,000 limitation on the total amount payable under this bill. The full text of the bill will be circulated as soon as it is available.

The problem immediately facing us relates to the passage of this bill by the House of Representatives, where we may expect more difficulties than in the Senate.

340855

MEMORANDUM IN SUPPORT OF S2420, 83RD CONGRESS (PASSED BY SENATE ON MAY 17, 1954)
AND IN SUPPORT OF HR5675 (WOLVERTON) AND HR5952 (CROSSER)

I. Purpose of proposed legislation

Each of the bills would amend the Trading with the Enemy Act to provide that property belonging to enemy nationals who were persecuted by the enemy for racial, religious or political reasons and who died heirless, be turned over to successor organizations to be designated by the President. The organizations are required to use the property in the rehabilitation and resettlement of the surviving victims of persecution. The only difference between S2420, passed by the Senate, and the measure pending before the House is that the Senate measure contains no ceiling on the amount of property returnable. It is estimated that the amount returnable will not exceed \$3,000,000. Consequently, to remove administrative difficulties the Senate eliminated the \$3,000,000 ceiling which appeared in the original version of S2420.

II. Proposed legislation confirms a principle previously approved by the Congress and is just

Notwithstanding American policy to seize and vest enemy property situated in the United States, the Congress in 1946 amended the Trading with the Enemy Act to provide for the return to the original owners or their lawful heirs, of property belonging to persons who were persecuted for racial, religious or political reasons. The rationale for the amendment is that the property in question is, realistically viewed, not enemy property but the property of persons who were treated as enemies by the enemy. The property involved in the proposed legislation is in the same category as that which is covered by the 1946 amendment. When the 1946 amendment was enacted, it was not realized that the genocide practiced by the enemy, a practice which resulted in the total annihilation of many families would give rise to the problem which the proposed legislation undertakes to solve. The proposed legislation would, in effect, confirm the earlier legislative decision that the property of the persecutees shall not be treated as enemy property, and would provide for a pre-eminently equitable disposition of the property of persecutees who died heirless.

III. Proposed legislation is humane

A. It is clear that if the former owners of the property involved in the proposed legislation were alive or if they were survived by lawful heirs the property in question would be returnable to them under the 1946 amendment of the Trading with the Enemy Act. Since there is no living person to assert a claim to the property in question, it is only just that the property be used in accordance with what undoubtedly would have been the wishes of those who owned the property and who perished at the hands of the enemy; namely, to help in the rehabilitation of the surviving victims of persecution.

B. If an heirless property bill substantially similar to S2420, to HR5675 or to HR5952 is not enacted, the proceeds of the property in question will either

be used in the discharge of war claims, or will escheat to the Government and ultimately be commingled with the general revenues of the United States. It is not conceivable that any person who has an unsatisfied war claim will want his claim paid with the proceeds of property belonging to persons who perished en masse at the hands of the enemy. Nor is it conceivable that the U.S. Government would want to claim as its own the proceeds of the property in question for use in the discharge of the general costs of the operation of our Government.

C. The United States established an enviable record in pursuing a postwar policy which has resulted in giving new hope to the surviving victims of Nazism. These people uprooted from their homes, are trying to make a fresh start in their countries of adoption. Many are sick and disabled, while many more have the problem of adjusting themselves to their new environment. Independently of the strong moral argument in favor of S2420, HR5675 and HR5952, it is clear that while the sum which either of these measures will make available for the benefit of these people is an insignificant sum in the treasury of the United States, it will help substantially in bringing the survivors of Hitlerism closer to their own goal, that of becoming self-sustaining human beings.

IV. Proposed legislation brings domestic policy in line with foreign policy

The enactment of an heirless property bill is essential to bring our domestic policy in line with our foreign policy. During the postwar period, the United States provided the initiative in the adoption of the principle, incorporated in the proposed legislation, that heirless property of victims of persecution should be used in the relief, rehabilitation and resettlement of the surviving victims of persecution. This policy, pursued especially by the Western Powers, is reflected in Military Government Law 59, in the United States Zone of Germany, in the Restitution Laws enacted in the French and British Zones of Occupation - in Germany and in the Western sector of Berlin, in the Satellite treaties, in the Paris Reparation Agreement, and in the Contractual Agreement with Germany. The draft of the treaty with Austria, proposed by the United States, contains a similar provision.

V. Proposed legislation is bi-partisan

In the Senate, the sponsors of S2420, passed by the Senate on May 17, 1954, are Senator Langer, Chairman of the Senate Judiciary Committee, and Senators McCarran and Hennings. In the House, the measures are sponsored by Congressman Wolverton, Chairman of the House Interstate and Foreign Commerce Committee, and Congressman Crosser. Similar measures, which the Senate passed in the 80th and 81st Congresses, also had bi-partisan support, including that of Senators Taft and O'Connor.

VI. Proposed legislation is non-controversial

A. Every Department and Agency of the Government which has been called upon to comment on the heirless property bills pending in the 83rd Congress or on

340856A

predecessor bills introduced in previous Congresses, have either enthusiastically endorsed the heirless property bills or have indicated that they have no objection to the enactment of the measures. These Departments and Agencies include the Department of State, the Department of Justice, and the War Claims Commission.

B. On June 26, 1950, the full committee of the House Interstate and Foreign Commerce Committee reported favorably on S603, 81st Congress (House Report 2338), a measure substantially similar to HR5675 and HR5952.

C. Any Administration should be proud to list the enactment of an heirless property bill as one of its achievements.

June 25, 1954

340857

TO: Dr. Nehemiah Robinson
FROM: Sandy Bols
RE: Heirless Property Bill

May 12, 1953
(Dictated May 8)

Re your letter of April 29 on the above:

1. I am still of the opinion that, particularly in light of the work-load and general apathy of Congress at this time, it is going to be extremely difficult if not impossible to secure enactment of this bill without a real, all-out and continuing effort on the part of all the interested agencies. That is not to disparage in any way what Sy is and has been doing on it, in which I am cooperating with him, but I just feel that that is not going to be enough.
2. I have talked with Sy about utilizing Abe's intervention to support the bill. But I am inclined to agree with Sy that this may be unwise and may possibly stir some unnecessary question or suspicion, not because of Abe's former position as General Counsel of the War Claims Commission, but because of his specific connection in that job with pushing approval of this bill by the WCC in previous Congresses. If he should intervene on it in his present position with the WCC, it might excite suspicion on the Hill that his former endorsement of it in the WCC was not unbiased. Nevertheless, I think Abe can be of assistance to Sy and me on this by indicating to us those in the WCC or on the Hill who from his experience he thinks may be helpful on this. If, without contacting the Hill, he feels he can personally get Mrs. Lusk to obviate any objection by Senator Chavez as occurred the last time, I think that would be a major contribution.
3. To bring you up to date on my efforts on this matter since my last memo, I have been in continuing touch with Sy and here is where the matter now stands: The memo which he prepared for Senator Johnson has been presented to the Senator, but Gerald Segal, Counsel to the Democratic Policy Committee, told me that to date there has been no response from Senator Johnson on it; he is presently out of town in Texas and is not expected back until Monday; but Segal said we might expect to have Johnson's decision on it sometime early next week. I have communicated this to Rubin. I have also sent a memorandum to Mr. McClure, Administrative Assistant to Senator Gillette, copy of which is enclosed, transmitting to him a copy of the memo Sy prepared for Johnson and urging him to have Gillette indicate to Johnson his own interest and support for the bill. McClure indicated that he did not think it would be necessary for us to see Gillette about this. I am quite confident that he will do what we ask on it. If Johnson decides to sponsor it, we feel that there is a good chance that Taft will go along.

340858

Memo to Dr. Robinson

- 2 -

May 12, 1953

But if a favorable answer is not soon forthcoming from Johnson and Taft, we will probably attempt to get bi-partisan sponsorship in the House, probably by Crosser and Wolverton, who introduced it before, and that may provide a lever on Taft and Johnson, and if they are still not amenable, then we may try to get sponsorship by Langer and McCarran (who amazingly, as you know, spoke in favor of it before). That about summarizes the situation to date. I understand from Sy that he expects to see you Monday in New York and will doubtless bring you up to date on this. I understand from him also that he is keeping Saul Kagan fully informed on all developments on this matter.

Best regards.

SHE:mf

cc- Mr. Hyman ✓
Dr. Petegorsky
Mr. Maslow



P.S. I have copies of letters of approval of the bill from the Department of Justice to Congressman Crosser and from the War Claims Commission to Senator McCarran, sent in connection with previous considerations of the bill. Saul Kagan also has copies of these and you may wish to see them or get copies from Saul if you do not already have them.



340058A

May 12, 1953

Mr. Stewart McClure
c/o Hon. Guy M. Gillette
United States Senate
Washington 25, D. C.

Re: Heirless Property Bill

Dear Mac:

Pursuant to our phone conversation of Friday I am attaching a brief memorandum explaining the above proposed bill. As I indicated to you, this same memorandum has been presented to Senator Lyndon Johnson and he is currently considering it. I understand from Mr. Segal, Counsel to the Democratic Policy Committee, that they expect to have an answer on Senator Johnson's sponsorship of it sometime during the week of May 11. It has been indicated to us that Senator Taft may be willing to co-sponsor it if the Minority Leader also does.

I shall appreciate it if you will take this matter up with your boss and if he will informally indicate to Senator Johnson his own interest in and support for such a measure, which I think might be most helpful in securing Johnson's sponsorship.

If you have any questions on this, don't hesitate to call me.

Thanks and best regards.

Sincerely yours,



SHB:mf

cc- Mr. Rubin, Mr. Robinson, Mr. Hyman, Dr. Petegorsky, Mr. Maslow

340859

MEMORANDUM

Re: Heirless Property Legislation

1. The principle is well-established in the United States that the property of persons who were nominally "enemy" nationals, but who were in fact persecuted by the Nazis, shall be returned to such persecutees. This principle has for years been a part of section 32 of our Trading with the Enemy Act. It has been a main source of U. S. Policy in Germany. And it is reflected in the satellite treaties of peace, having been put there at U. S. insistence.

2. The U. S. has also adopted the principle that if such persecutees were killed, and if none of their heirs survived, their "heirless property" should be used for the relief and rehabilitation of surviving persecutees. Pursuant to this principle, the U. S. took the lead, in Germany (where the main problem existed), in enacting appropriate military government legislation, in pressing for enactment of similar legislation in the British and French Zones, and in securing recognition of the principle in the Contractual Agreement. This principle is also included in the agreement signed in August 1952 between the U. S., France and the United Kingdom and Switzerland on the subject of German property in Switzerland.

3. The same policy has led to bipartisan efforts to enact remedial legislation in the United States. Legislation was proposed in the 80th., 81st. and 82nd. Congresses, on a bipartisan basis. Senator Taft has been a sponsor of the proposed legislation, as have been Senators McGrath and O'Connor. On the House side, Congressman Wolverton and Crosser have been the sponsors of the legislation.

4. The proposed legislation passed the Senate on the Consent Calendar in the 80th. and 81st. Congresses, and was favorably reported by the House Interstate and Foreign Commerce Committee. A copy of the House Committee report is attached hereto. That Report (81st. Congress, 2nd. Session, No. 2338) discloses the full support of the Executive Branch of the Government. A copy of the statement of Senator O'Connor on the floor of the Senate is also attached hereto.

5. The legislation would permit the President to designate one or more organizations as successors in interest to persons who, with their entire families, were exterminated during the Nazi horror. These persons, if alive, or if they had heirs, would under existing law be able to claim their property in the United States. The proposed bill would allow their successor organizations to claim in their stead, and to use the proceeds for the relief of the poor, the uprooted, the sick and the needy in the same class of persecutees.

To insure that the amounts involved here are not excessive, a top limit of \$3,000,000 has been inserted in the legislation.

It should be emphasized that no property will be returned unless it can be demonstrated that it was the property of a religious, racial or political persecutee, who has died without heirs. The use of the proceeds, for humanitarian purposes, would be subject to strict supervision and reporting.

6. A new bill should be exactly the same as S. 1748, except that the dates for the filing of claims, which have been outmoded by the passage of time, must be changed.

340860

HPB

918

Memorandum from AMERICAN JEWISH CONGRESS

927 - 15th STREET, N.W., WASHINGTON 5, D. C. • EXECUTIVE 2674

TO: Abraham S. Hyman
FROM: Sandy Bolz
RE: Heirless Property Bill

SANFORD H. BOLZ—*Washington Representative*

May 12, 1954
(Dictated May 10)

Hurray for your good news that the Senate Judiciary Committee not only approved the Heirless Property Bill but struck out the \$3,000,000 limitation. This is excellent news and I think you should consider it a personal triumph. Let me know what the schedule and plans are for the House after you contact Wolverton. Let me just caution you that the House will undoubtedly adjourn as early as possible this year because of the elections - and certainly much earlier than the Senate. Consequently, if there is to be action on the bill you will have to get Wolverton to move as expeditiously as you got McCarran and Dirksen to move. Let me know if there is any help I can give you.

It was good to see you and Rina here yesterday. Be sure to let me know next time you are coming down so you can take dinner with us.

Warm regards.

Sandy

cc- Dr. Petegorsky
Mr. Maslow

LAW OFFICES

TELEPHONE RANDOLPH 6-6200

RANDOLPH BOHRER
MASON L. BOHRER

135 SOUTH LA SALLE STREET

CHICAGO 3

C O P Y

May 11, 1954

Hon. Everett M. Dirksen
Senate Office Building
Washington, D. C.

Dear Everett:

I just received a telephone call from the World Jewish Congress headquarters in New York advising me that your Committee had voted out the Senate Bill with respect to the property of alien persecutees which I discussed with you in Washington. All of the details as to your courteous treatment before the Senate Committee and your efforts and success have been related to me and gave me no small measure of pleasure.

Both the World Jewish Congress and I are deeply grateful for your kind cooperation, particularly in the light of the extreme pressure you are presently undergoing. You may be assured that I shall see to it that your service in behalf of these unfortunate people is given its just recognition.

With every good wish, I am

Sincerely,

/s/ Randy

✓ X
RANDOLPH BOHRER

RB.jc

340862

WILLIAM LANGER, N. DAK., CHAIRMAN
ALEXANDER WILEY, WIS.
WILLIAM E. JENNER, IND.
ARTHUR V. WATKINS, UTAH
ROBERT C. HENDRICKSON, N. J.
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JOHN MARSHALL BUTLER, MD.
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ESTES KEFAUVER, TENN.
OLIN D. JHINGTON, S. C.
THOMAS C. HENNINGE, JR., MO.
JOHN L. MCCLELLAN, ARK.

United States Senate

COMMITTEE ON THE JUDICIARY

May 10, 1954

Mr. Abraham S. Hyman
World Jewish Congress
15 East 84th Street
New York 28, New York

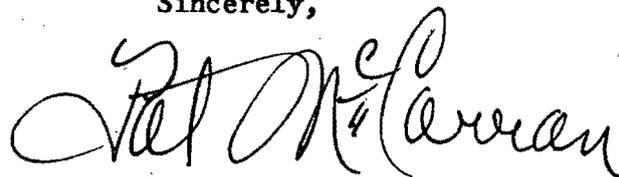
Dear Mr. Hyman:

With reference to your letter of May 5, it is a pleasure to tell you that the bill S. 2420, of which I have the honor to be a co-sponsor, was approved by the Judiciary Committee this morning, and will be reported favorably to the Senate.

The bill was approved with two amendments: one eliminating the \$3,000,000 limitation, the other permitting welfare organizations to retain and use property as an alternative to selling it.

Kindest regards.

Sincerely,



340863

May 5, 1954

Hon. Pat McCarran
United States Senate
Washington, D. C.

Dear Senator:

I just learned that the Subcommittee of the Judiciary Committee has approved S2420, the heirless property bill, and that it is planned to have this bill presented to the full Committee at its regular meeting scheduled for Monday, May 10th. I hope that you will arrange to be present at this meeting and persuade your associates that the bill is entitled not only to favorable consideration, but to the highest priority.

I am confident that I can rely upon you for your continued efforts with the view of securing the enactment of this measure at this Session of the Congress.

With warmest regards and best wishes, I am

Sincerely,

ASH:st

Abraham S. Hyman

340864

MEMORANDUM

April 20, 1954

To : Dr. Israel Goldstein
From : Abraham S. Hyman

cc: Mr. Shad Polier, Dr. David Petegorsky

I was pleased to receive your memorandum of April 14 with reference to my appearance before the Subcommittee of the Senate Judiciary Committee, and to learn of the understanding between the AJC and the WJC on appearances before American bodies. I regard the understanding based on a sound principle and will be governed by it in the future.

With respect to the specific instances to which you refer, I must say that when I first came to the Congress nearly a year ago I asked why the American Jewish Congress was not in the picture on the heirless property bill pending before the Congress. Kagan told me that the heirless property question had consistently been dealt with only by the WJC, the JDC, the Agency and the Committee. When this was confirmed by our office, I concluded that the arrangements had been hallowed by precedent and dropped the matter. With this background it was only natural for me to offer to testify on behalf of the WJC.

For a while it appeared that Blaustein would represent the Committee at the hearing. Had this materialized I would have called you, despite the fact that you were, so to speak, still not "on duty", would have apprised you of the development, and would have suggested that you testify on behalf of the WJC. The alternative of you speaking on behalf of the AJC would not have occurred to me at that point. In any event, the Committee selected Prof. Gray to represent it and, therefore, I concluded that in view of my own knowledge of the problem I would be an appropriate match for Gray.

Having reached the foregoing conclusion, I sent out to a few people -including you- copies of the statement I proposed to make. After Shad read it he called me and told me that you and he had discussed the matter and that it was your combined judgment that I testify on behalf of the AJC. I agreed with this position and told Shad that I would take the matter up with the representatives of other organizations working on the heirless property bill. I discussed the matter at a briefing, held shortly after I received Shad's call, and found that the suggestion that I testify on behalf of the AJC met with everyone's approval. I called Shad to that effect and had new statements run off. I am enclosing a copy of the statement which I presented on behalf of the AJC.

One word about the publicity given to our participation in the hearing. At a meeting attended by representatives of the JDC, the Committee and the WJC, held several weeks ago, it was specifically agreed that no publicity would be given to the hearing nor to any of the work the organizations were doing in getting the heirless property bill enacted. The reason for this decision is that we were afraid that the German group, disgruntled over their alleged grievances against the JRSO, would appear before the Congressional committees and register their complaints. Apparently, the understanding reached among the organizations meant nothing to the Committee after Gray had testified. It was the Committee which, in violation of the agreement, issued the publicity which you may have read in the New York Post and in the other local papers.

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C
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Y

April 15, 1954

Senator Everett Dirksen, Chairman
Subcommittee on Trading with the Enemy Act
Committee on the Judiciary
Washington, D.C.

Dear Senator Dirksen:

I regret very much that the pressure of time made it impossible for me to supplement my written statement, with some observations I had intended to make on the several points raised by you and by Mr. Smithy in the course of the hearing.

After the hearing, I discussed the various points with Mr. Smithy. Upon his suggestion, I am writing you with the hope that you would take these views into consideration when your Subcommittee meets to act on S-2420.

1. \$3,000,000 limitation. You quite properly raised the question as to why the \$3,000,000 limitation is imposed on the amount which may be returnable under the bill. I say "quite properly" because if the principle is correct that heirless property of persecutees should not escheat to the government, then it logically follows that regardless of the amount involved, the heirless property should be turned over to the successor organizations for the purposes prescribed in the bill. Frankly, that was the view of all of the major Jewish organizations when they originally suggested the bills which were introduced in the 80th, 81st, 82nd, and 83rd Congresses. The reason that the \$3,000,000 limitation was finally written into the bill is that the War Claims Commission would not give its approval to a bill with an open amount. The War Claims Commission argued with respect to S-603, the bill which passed the Senate of the 81st Congress, that it did not have any estimate of the amount returnable under the bill and that it might develop that the amount returnable would not leave a sufficient sum to discharge the claims compensable under the War Claims Act. In deference to this position, S-603 was amended in the Committee and passed in the 81st Congress with the \$3,000,000 limitation.

It is obvious that the original reason for including the \$3,000,000 limitation has disappeared. As you know, the 83rd Congress made \$75,000,000 available for the payment of war claims. At the hearing, the Commission submitted a statement to the effect it now has funds adequate to cover all the claims presently compensable under the War Claims Act. Consequently, even from the standpoint of the War Claims Commission problem, there is no longer any reason in insisting upon the \$3,000,000 provision.

340866

Senator Dirksen
April 15, 1954
Page Two

In the course of the hearing, you inquired as to how the \$3,000,000 figure was arrived at. The answer is that samplings were made of the type of property in question and it was estimated that the \$3,000,000 sum would in all probability cover all of the heirless property in question. This belief is still the view of the major Jewish organizations interested in the bill. It is therefore apparent that the \$3,000,000 limitation would not present the administrative problem of proration among several successor organizations, a problem which, as both you and Mr. Smith pointed out, would arise if the sum returnable exceeded the \$3,000,000 figure, and if several successor organizations representative of different categories of persecutees were involved.

There are, in the judgment of the major Jewish organizations, two reasons why the \$3,000,000 limitations should be removed, particularly since the objection raised by the War Claims Commission no longer exists.

The first and foremost reason is that without the limitation the bill better expresses the principle on which it is based. The organizations are interested in a clear enactment of the principle and any limitation, even if only apparent, necessarily narrows down the principle. It is only when it appeared that the bill could not pass without the limitation that the compromise was accepted. The reason for the compromise no longer having any validity, it would seem that the limitation should be removed. The bill would certainly be a much more dignified measure if it did not include the limitation.

The second reason relates to the administrative problems suggested by Mr. Smith, problems which would not arise if the limitation were removed. These are (1) the problem of proration, in the event that the sum returnable actually exceeded \$3,000,000 and that more than one successor organization, representative of more than one category of persecutees, were appointed by the President; and (2) the problem of computing the value of a future interest in an estate, as of the date the return is made. As Mr. Smith pointed out with respect to the latter, such computation would require actuarial work and would impose an additional burden on the Office of Alien Property, and would thus interfere with the winding up of the operations of that office.

The only reticence we have about recommending the deletion of the \$3,000,000 limitation is that without the limitation the bill might induce misgivings in the minds of some members of Congress when the measure comes up for adoption on the Consent Calendar. Of course, the Jewish organizations would prefer to have the bill with the \$3,000,000 limitation than no bill at all. Consequently, the final decision as to whether the \$3,000,000 limitation should or should not appear rests upon what you believe to be the chances of getting the bill through on the Consent Calendar, without the limitation. If your judgment is that the chances are the same in either event, then obviously, for the reasons indicated, it should be removed. It is relevant in this connection to point out there was no limitation imposed on the property returnable under the 1946 amendment to the Trading with the Enemy Act, in favor of living persecutees. Should you come to the conclusion that the \$3,000,000 limitation should be removed, it would appear advisable to have the accompanying report contain a statement to the effect that in view of the fact that the original reason for the limitation no longer exists, and in view of assurances the subcommittee received that, in any event, the amount returnable would not exceed \$3,000,000, the limitation is deleted, to make the wording of the bill more adequately state the policy on which the bill is predicated.

340866A

COPY

Senator Dirksen
April 15, 1954
Page Three

2. Question presented by reference to (D) of subsection (a) appearing on line 10 p. 1 of Bill. In his questioning, Mr. Smithy wondered whether this problem might not present a difficult question for construction since, while the bill is intended to be limited to the property of persons deprived of their liberty and full rights of citizenship, the section (D) etc. has reference to dual nationals as well as persecutees. The reason the bill was not drawn more narrowly is that that portion of it was copied from an earlier bill drawn before the section contained any reference to dual nationals. At the present time it would seem appropriate to amend line 9 as follows: "alive, would, because of a substantial deprivation of liberty or the failure to enjoy full rights of citizenship, be eligible to receive returns under the provisos" (the underscored portion is the added portion of line 9 p. 1 of the Bill).

3. Line 18 p. 2 of the Bill. We agree that the words "sell and dispose of and" are confusing in the context. We recommend that these words be stricken.

4. Selection of a successor organization. As I pointed out in my statement, the Bill is primarily one involving the property of the Jews who perished and who left no heirs. The Jewish Restitution Successor Organization, an American corporation organized under the Laws of the State of New York, was selected by the Department of State as the successor organization under the U.S. Military Government Law No. 59. While acting in that capacity, it has earned the respect of the United States authorities in Germany. The President, General Clay and Mr. McCloy are well acquainted with this organization. This organization, which represents twelve major Jewish organizations in the United States, will definitely apply as the successor organization under S-2420. In his selection of the successor organization, the President will certainly be guided by the experience the United States Government gained in the administration of law 59.

We know that the calendar of your subcommittee is very crowded, but we are hopeful, on the basis of the fine spirit you exhibited at the hearing, that you will do your very best to see that the bill is reported out the next time your subcommittee convenes.

I have met with representatives of the American Jewish Committee, who fully share the views expressed above.

We are most grateful to you for your interest and cooperation in this matter.

Sincerely yours,

Abraham S. Hyman

340867

MEMO

To: Mr. Abraham S. Hyman

From: Dr. Israel Goldstein

April 14, 1954

I have before me the statement you made at the hearing before the subcommittee of the Committee on the Judiciary.

I am glad that you appeared and I am sure you made a good impression.

May I take this occasion, however, to mention something of which perhaps you have not been aware. There has been an understanding between the World Jewish Congress here and the American Jewish Congress that in appearances before American bodies, whether it be our State Department or the Executive Department or the houses of Congress, the American Jewish Congress or the Western Hemisphere Executive be delegated to be the official representative, and that when deemed desirable the WJC representative and the AJC representative go together. In the case of the British Section it would be inconceivable that World Jewish Congress representations should be made without using the British Section as the channel of approach.

In this particular case, I was not apprised either as the Chairman of the Western Hemisphere Executive or as the President of the American Jewish Congress that you were going to make an appearance in this matter. You identified yourself as the Administrative Director of the World Jewish Congress. Nothing was said about the Western Hemisphere Executive or the American Jewish Congress.

If you had informed me about this matter, then in all likelihood I would have asked you to make the appearance, but you would have been representing the Western Hemisphere Executive or the American Jewish Congress.

Situations have arisen in the past with regard to Dr. Perlzweig which touch the same problem.

I trust that in the future my suggestion will be borne in mind.

Copy: Dr. Petegorsky
Mr. Polier

340868

STATEMENT OF WHITNEY GILLILLAND, CHAIRMAN, WAR CLAIMS COMMISSION
BEFORE A SPECIAL SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY,
UNITED STATES SENATE, 83d CONGRESS, SECOND SESSION, APRIL 14, 1954
ON S. 2420.

Mr. Chairman and Members of the Subcommittee:

Let me express my appreciation for this opportunity to appear before you in connection with proposed amendments to the Trading With the Enemy Act now before you, particularly the bill, S. 2420. This bill proposes to amend section 32 by authorizing the President to designate certain non-profit, charitable corporations as successors in interest to deceased claimants who would otherwise be eligible to the return of property under the provisions of subdivision (C) or (D) of section 2 (a). It also limits the total of returns to such successors to \$3,000,000 and prescribes certain other conditions for their allowance.

The War Claims Commission, as a general rule, does not concern itself with proposed amendments to the Trading With the Enemy Act unless the War Claims Fund would be affected thereby, or unless any proposed amendment would conflict or interfere with provisions of the War Claims Act which are administered by the Commission. For that reason, Mr. Chairman, my remarks will be confined to such aspects of the bill. The War Claims Fund was established on the books of the United States Treasury by section 13 of the War Claims Act. It consists of all sums covered into the Treasury pursuant to section 39 of the Trading With the Enemy Act, as amended. It represents the net proceeds of vested German or Japanese assets in the hands of the Alien Property Custodian and transferred by him to the Treasury. It

is the only source for payments to claimants under the War Claims Act.

This bill, S. 2420, insofar as it would tend to deplete German or Japanese assets that might otherwise be available for payment of war claims, is the direct concern of the Commission. Although it would permit some additional payments under section 32 of the Trading With the Enemy Act it appears that the effect on the War Claims Fund would probably be very negligible. In general, the return of any property under section 32, for example, cannot be made if it was owned by the former German or Japanese Governments, by German or Japanese corporations or associations or by citizens or subjects of those countries unless such citizens or subjects were mistreated, persecuted or killed for political, racial, or religious reasons.

The Commission is not in a position to estimate, with any degree of certainty, how much property might be returnable to Japanese or German owners which in turn would become returnable to designated organizations under S. 2420. It is believed, however, that the restrictions placed upon such returns under existing law and under S. 2420, would reduce the potential drain on the War Claims Fund virtually to zero.

There appear to be sufficient assets in the War Claims Fund and in the Payment of Claims Account, which is derived from the War Claims Fund, to permit the Commission to meet its presently assigned claims obligations. As of April 1 this year, there was a balance in the Fund of \$52,794,397.33 which is currently available for the payment of approximately that amount of remaining claims, including those

adjudicated and certified for payment out of the Fund by the Bureau of Employees Compensation in the Department of Labor under Section 5 (f) of the War Claims Act of 1948.

The War Claims Commission cannot properly comment on the merits of this bill. However, it stands ready to provide any information of a general nature related to the duties of the Commission or the effect of S. 2420 on its operations, which the Committee may deem to be appropriate.

April 13, 1954

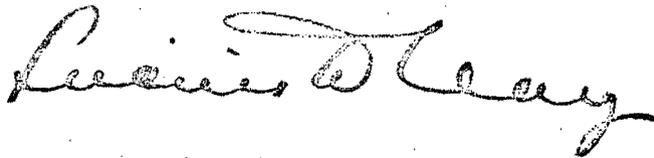
Dear Senator Dirksen:

I am advised that your Subcommittee is to conduct a hearing on S. 2420 on April 14. I understand that this bill is essentially the same as S. 603, passed by the U. S. Senate in August 1949, and as H. R. 1849 and H. R. 2780 introduced in the House of Representatives during the 80th Session of the Congress.

On May 15, 1950 I testified before the Subcommittee of the House Committee on Interstate and Foreign Commerce in favor of S. 603, H. R. 1849 and H. R. 2780, presenting a formal statement of the reasons which led me to support these bills. At the risk of being presumptuous, I am enclosing a copy of this statement.

I do this because it seems to me that the allocation of heirless property of persecutees to the relief and rehabilitation of the surviving victims of persecution, is sound public policy. It is consistent with policy followed by our Government in Germany with respect to heirless property. I do hope we will adhere to this principle.

Sincerely yours,



Honorable Everett Dirksen
Chairman, Subcommittee on Trading with the Enemy Act
Committee on the Judiciary
United States Senate
Washington, D. C.

COPY

340871

April 7, 1954

Mr. Langdon West
Administrative Assistant
Office of Senator Thomas C. Hennings
United States Senate
Washington, D.C.

Dear Mr. West:

I am herewith enclosing a draft of a statement I have prepared for Senator Henning's use at the hearing of S.2420. Although the statement is a short one, I believe it covers the issues and, in my opinion, states them very simply.

As I indicated to you over the 'phone, I plan to be present at the hearing. I believe that someone from the American Jewish Committee will also make a statement in favor of the Bill. We are in the process of securing supporting statements from General Clay and John J. McCloy. General Clay testified in May 1950 on S. 603, an earlier version of S. 2420. I feel reasonably certain that both Clay and McCloy will place their influence behind this measure.

I look forward to seeing you in Washington on the 14th.

With warmest personal regards,

Yours sincerely,

ASH:ew

Abraham S. Hyman

340872

American Jewish Congress

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927 - 15th STREET, N.W., WASHINGTON 5, D. C. • EXECUTIVE 2674
SANFORD H. BOLZ—Washington Representative

TO: Abraham Hyman
FROM: Sandy Bolz
RE: Heirless Property Bill

April 8, 1954

I enclose letter to the editor entitled "Giveaway To Germany" by the Press Secretary of the German Diplomatic Mission, which appeared in yesterday's Washington Post, replying to an earlier editorial opposing return of German property seized by the Alien Property Custodian during the last war.

It occurs to me that this may provide an excellent opportunity for a letter to the editor by you making clear that regardless of whether or not the U. S. returns German property, any such return must certainly not include heirless property that had belonged to the victims of the Nazis. Since you have had the most recent negotiations with Senator McCarran, you will be able to reflect therein his interest and attitude, which I feel will also be persuasive. As you may know, the Washington Post has now absorbed the Times Herald so that it is now the only morning newspaper in Washington. Accordingly, a letter to the editor in it now has far wider circulation, among Congressmen and others, than it ever had when it was simply a letter to the Washington Post.

I had thought to prepare the letter myself, but on reflection felt that it would sound much better coming from you, particularly if it noted your background as advisor in Germany on Jewish affairs, etc., as did your article in Congress Weekly. If for any reason you are too jammed to do it, let me know and I will do the best I can on it, stealing from your article, although this is much more your field than mine.

In any case, if you do write it, instead of sending it directly to the Post, I suggest you send to me your letter, addressed to the Editor of the Washington Post and Times Herald, and I will forward it on to Bob Estabrook, who runs the editorial page and whom I know, with a personal request that he print it in full.

Best regards.

cc- Mr. Maslow
Dr. Petegorsky
Mr. Polier



340873

"Giveaway To Germany"

Wed. Feb. 27, 1951

The lead editorial of March 23, "Giveaway To Germany," expresses concern that the intention, supported by the Senate Judiciary Subcommittee, to return to its owners German private property seized in the United States during the war would be tantamount to the repayment of reparations to which the United States is legally entitled. Two facts make it possible for Americans and Germans to discuss this question, if it is put in this way, in a fair and friendly manner: one, the friendly tone of Chancellor Adenauer's appeal that it would constitute a gesture of friendship and would ease the economic problems of the German people; and two, the basic position which the United States has always taken on the question of private property and the protection of capital investment abroad.

Chancellor Adenauer said what he did in the conviction that he would be fully understood in the United States; for it is the United States which has always interceded in favor of private property throughout the world and sought to achieve the economic strengthening of those countries who oppose the enemies of private property. Seen in this light, is it actually a question of the repayment of reparations? Or isn't it rather a question whether the reparations should be paid out of private property.

The Paris Reparation Agreement of 1946 and the War Claims Act of 1948 were based on the assumption that German private property "was rigidly controlled by the German government and used to advance German national objectives." It has never been proved that German private property in the United States was used, or misused, by the Nazi government for its own purposes. A United States Military Tribunal in Nuremberg did not consider admissible the evidence that the Hitler government used German private property for criminal purposes, and the defendants were acquitted on this count.

The Paris Reparation Agreement and the War Claims Act (the latter was three years in passing Congress) also presuppose that it is necessary to remove German influence in foreign trade and industry, "thus destroying any economic base for future aggression by Germany."

That might have been said with good conscience in 1946, but during the following years it became clear that the fronts

had changed completely. The free world had no longer to fight the Nazis who were destroyed. It is now fighting communism which continues to threaten it. Meanwhile, Germany has become a bulwark of the free world against communism. Today the Federal Republic, by the will of its voters, has neither Communists nor neo-Nazis in its parliament.

The reparations program of the Western Allies was extensively revised in 1949. Dismantling of West German industry, which was one of the main points of this program, was curtailed and stopped. The assertion that "no allied country has made any such return" (of seized German property) does not fully describe the actual situation. Allied countries which were not signatories to the Paris Reparation Agreement as well as other countries which seized German property—for instance, Argentina, Brazil, Chile, Iran, Switzerland and Israel—have already set out on the way to returning German property which means recognizing German private property.

It is of interest to note that approximately 75 percent of the war claims which have been paid out of German private property were against Japan, because Japanese property (amounting to 50 million dollars) in the United States was not sufficient to satisfy these claims. As far as Italian property seized by the United States is concerned, it was returned to its owners in 1947. The joint resolution (Law 370, Eighty-first Congress), states that Italian property is returned "for the purpose of aiding the revival of the Italian economy and establishing it on a self-sustaining basis."

One essential difference must be kept in mind in discussing this problem. Naturally, there can be no objection to the seizure of enemy property in time of war. As the editorial says, "the seizure was advocated in both wars by men of irreproachable patriotism . . ." Seizure, however, is not expropriation. In 1943 Secretary of State John Foster Dulles, then a private lawyer in New York, defined the seizure of enemy property in war time as only a "precautionary measure." The ultimate confiscation and disposition of enemy property, especially after the cessation of hostilities, has never been recognized in the long tradition of American foreign policies and law.

WALTER GONG,
Press Secretary
German Diplomatic Mission,
Washington.

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was issued solely for her attendance at the U-N and now that she no longer has legitimate business here, she would be expected to leave the country as soon as possible.

Soviet Delegate Semyon Tsarapkin objected vehemently.

"This can only be the beginning of a movement to deprive all non-governmental organizations of consultative status which are not specifically approved by the United States," he said. "It is the opening here of a period of intolerance. Only in the United States is being a Communist considered criminal."

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called on the to serve notice States will not April 26. Geneva Asia "until it established the not engaged Indo-China."

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**GEORG
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3254 M St. N.W.

340874A

April 7, 1954

Gen. Lucius D. Clay
Continental Can Company
100 East 42nd Street
New York City

Dear General Clay:

I had hoped that by this time I would have been able to take advantage of your very gracious offer to see me in connection with the book I have been planning to write. However, the pressure of work at the Congress has been so great that I have not been able to devote as much of my after office hours to the project, as I need to make any real headway with the book. I am still interested in having a chat with you when I reach that part in my writing where I feel your help will be useful.

I wonder whether I may trouble you with a matter in which you have in the past exhibited a great deal of interest. On April 14th there will be a hearing before the Subcommittee of the Judiciary Committee on S. 2420, the most recent version of the perennial heirless property bill. You will recall that on May 15, 1950, you testified before the House Interstate and Foreign Commerce Committee on a similar measure. The only real difference between S.603 and the House bills on which you submitted testimony and S.2420 is that the latter contains a three million dollar limitation on the amount of the property to be turned over to the successor organization. The representatives of the major Jewish organizations think it would be exceedingly helpful if you would ask the Senate Subcommittee to put in the record the written statement which you presented at the May 15, 1950 hearing. For your convenience, I am enclosing a copy of this statement. Also, recognizing that you are exceedingly busy, I took the liberty of preparing a draft of a letter for you to Senator Dirksen to accompany your earlier statement, should you decide to act favorably upon the suggestion of the Jewish organizations. I plan to attend the hearing on S.2420 and make a statement in favor of the measure. Should you decide to send a letter and statement, you may either send it directly to Senator Dirksen, or to my office in time for it to reach me by April 13th.

340875

I hope that you have been enjoying good health. Assuring you of my continued esteem, I am

Sincerely,

Abraham S. Hyman
Administrative Director

ASH:st
enc.

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340875A

Recommended statement by Lucius D. Clay in favor of S2420

Senator Everett Dirksen, Chairman
Subcommittee on Trading with the Enemy Act
Committee on the Judiciary
Washington, D. C.

Dear Senator Dirksen:

It has come to my attention that on April 14th your Subcommittee will conduct a hearing on S2420. This bill is essentially the same as S603, passed by the U. S. Senate in August 1949, and as HR1849 and HR2780, introduced in the House by Representatives during the 80th Session of the Congress.

On May 15, 1950 I appeared before the Subcommittee of the House Committee on Interstate and Foreign Commerce and testified in favor of S603, HR1849 and HR2780. In that connection, I presented a written statement, a copy of which I am enclosing.

I am still of the opinion that the principle of making heirless property of persecutees available for the relief and rehabilitation of the surviving victims of persecution, is sound public policy. The objective of S2420 is clearly in line with the official position taken by our Government with respect to heirless property whenever we have been called upon to deal with this problem.

Please consider my statement on S603, HR1849 and HR2780 as reflecting my views on S2420. I look forward to hearing that S2420 has been enacted into law.

Sincerely,

LUCIUS D. CLAY

340876

April 6, 1954

Hon. Pat McCarran
United States Senate
Washington, D. C.

Dear Senator:

Thanks much for your letter of April 3rd.
It is a source of great satisfaction to me to find you acting so promptly in securing a hearing in the measure. I am rather confident that the Subcommittee will give its approval to the bill.

I am this day writing Senator Dirksen and asking him for the privilege of testifying in favor of the measure. In addition, I believe that I will have with me supporting statements from men prominent in public life who have consistently voiced their interest in seeing bills similar to S.2420 enacted into law.

I look forward to the pleasure of seeing you again when I am in Washington on the 14th.

With warmest regards, I am

Sincerely,

ASH:st

Abraham S. Hyman

340877

WILLIAM LANGER, N. DAK., CHAIRMAN
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JOHN MARSHALL BUTLER, MD. JOHN L. MCCLELLAN, ARK.

United States Senate

COMMITTEE ON THE JUDICIARY

April 3, 1954

Mr. Abraham S. Hyman
Administrative Director
World Jewish Congress
15 East 84th Street
New York 28, New York

My dear friend Hyman:

Thanks for your letter. I am glad to have the copy of your article in "Congress Weekly" and your letter to the Times. They will, I am sure, be helpful.

I am happy to be able to tell you that a hearing on S. 2420 has been scheduled for April 14, at 10:30 a.m., in the Senate Judiciary Committee Room, 424 Senate Office Building. On the basis of the hearing record, I think it will then be possible to get favorable action by the subcommittee which, as I assume you know, is composed of Senators Dirksen, Langer, Hendrickson, Butler, Kefauver, Hennings and McClellan. This subcommittee, appointed by Senator Langer as Chairman of the full committee, includes the two Senators who joined with me in co-sponsoring the bill, namely, Senator Hennings and Senator Langer; but I am not a member of the subcommittee.

Kindest regards and all good wishes.

Sincerely,



340878

COPY

UNITED STATES SENATE
Committee on the Judiciary

April 3, 1954

Mr. Abraham S. Hyman
Administrative Director
World Jewish Congress
15 East 84th Street
New York 28, New York

My dear friend Hyman:

Thanks for your letter. I am glad to have the copy of your article in "Congress Weekly" and your letter to the Times. They will, I am sure, be helpful.

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Kindest regards and all good wishes.

Sincerely,

PAT McCARRAN

340879

April 1, 1954

Hon. Pat McCarran
United States Senate
Washington, D. C.

Dear Mr. McCarran:

It was a distinct pleasure for me to meet you and to learn of your sustained interest in S2420, the bill providing for the turning over of the assets of heirless victims of Nazi persecution, to a successor organization for the benefit of surviving victims. I speak for the World Jewish Congress and all the Jewish organizations interested in this problem, in expressing the hope that you will succeed in your undertaking to get the bill favorably reported by your Committee and in getting it placed on the Senate's Consent Calendar. Once the measure has passed the Senate, I am reasonably certain that the House will follow the Senate's example.

In my conference with you, I told you I would send you something I had written on the issues involved in the heirless property bill. I am enclosing an article which I wrote in the June 1, 1953 issue of the CONGRESS WEEKLY, as well as my letter which appeared in the June 19 issue of the NEW YORK TIMES. I hope that these articles will be of use to you in your efforts to enlist among your associates support for your measure.

I know that you are very busy and therefore doubly appreciate the fact that you gave me the time to discuss the bill with you personally.

With warmest regards to Miss Adams and yourself, I am

Sincerely,

ASH:st
enc.

Abraham S. Hyman
Administrative Director

340880

March 31, 1954

Mr. R. Bohrer
Islander Hotel
Isla Moranda, Fla.

Dear Randy:

I hope that the fish are finding your bait attractive. Had I known that you were leaving Washington on a fishing expedition, I would have taken along the accessories to my Leika and would have insisted that you use my telescopic lense when you photograph your catches. The pictures would then be able to corroborate any tall story you might want to tell.

I know that you are eager to learn the results of my overtures to the Hon. Pat McCarran and to Mr. Wolverton, the Chairman of the House Interstate and Foreign Commerce Committee. Although McCarran had a very busy day, when he learned that a law associate of his had served under me in the Theater Judge Advocate's Office, he gave me about twenty minutes of his time. Apparently, the purpose of S2420 had slipped his memory and I had to reacquaint him with the objective of the measure. He caught on quick, since he promptly assured me that he was in complete sympathy with the bill. After all, why shouldn't he be? He is one of the sponsors of the measure. The upshot of our conference is that he felt as I that Dirksen's omnibus bill calling for the return of all of the enemy assets to their former owners, is still in the talking stage and that there is very little likelihood of legislation embodying Dirksen's proposals being enacted during this session of the Congress. McCarran is convinced, as you and I are, that there is an important moral principle involved in S2420 and that the bill should be given the right of way during this session of the Congress. He made it clear to me that he would see Dirksen and that he would try to get the bill reported to the full Judiciary Committee, and from that point on would urge the full Committee to report favorably upon the bill. The effect of this would be to get the bill on the Consent Calendar. Of course, a powerful argument with McCarran, aside from the moral issue, was the fact that the Senate had during the 80th and 81st Congress, actually passed a similar measure.

340881

I also conferred with Mr. Wolverton, who introduced a companion bill in the House. Wolverton told me that the House Interstate and Foreign Commerce Committee had an impossible schedule to meet. Nevertheless, he assured me that if the bill gets through the Senate, it would be irresistible leverage which he could use in getting the bill favorably reported by his Committee. Since all of the reasons for earlier objections to the measure, particularly those involving the non-availability of funds for the prisoner of war claims, could not longer be asserted, Wolverton was sanguine about getting the measure approved by the House on its Consent Calendar.

As I see the picture, Dirksen holds the key to the successful resolution of this problem. If Dirksen could be persuaded to report the bill to the full Committee, it would be of immeasurable help. Of course, McCarran may have sufficient influence with Dirksen and the other members of the Subcommittee to pry the bill loose from the Subcommittee. However, Dirksen may have a personal interest in his omnibus bill and he may, as he indicated to you, want to use our bill as a bargaining point with groups whose support could be won for the omnibus bill. If Dirksen remains adamant, he may be able to block the measure, if not with the Committee, then on the floor of the Senate when the measure comes up on the Consent Calendar.

For all these reasons, I think it is imperative that Dirksen be persuaded that the arguments in favor of S2420 are so strong, that the enactment of this measure should not wait until a decision is reached by both the Administration and the Congress on the major question as to whether enemy assets should be returned to their former owners. Whether or not we decide to return such property generally, we certainly do not want to keep the property of people who were victims of the genocide practiced by the enemy.

In view of the time element involved, I would suggest that upon receipt of this letter, you call Dirksen and tell him that you have given further thought to this matter, that you have discussed the problem with the people who have been in touch with other members of the Subcommittee and of the full Judiciary Committee, and that you are convinced that the overwhelming sentiment is in favor of S2420, and that no one whom you have encountered feels that S2420 should be made an inseparable part of Dirksen's package proposal. I know that you will find the appropriate words to get this message across.

Just one personal word. After I had spent the two days with you, I recalled a conversation between Roosevelt and Willkie, reported in "Roosevelt and Hopkins". Willkie asked Roosevelt why he put up with Hopkins, someone for whom Willkie had no small amount of contempt. Roosevelt promptly replied: "Some day you may be President, Mr. Willkie, and you will be sitting at this desk. When you are in that position, you will consider it a welcome relief to look at the door ahead of you and see a man entering your room who does not come in to ask something for himself, but enters for no other reason than to ask you how he

can best serve you." In my private and organization work I have met many people who participate actively in civic work. I can truthfully tell you that I have never met a person who was as selfless as you are in his approach to his work on behalf of the Jewish people. I have a feeling that in all that you do, you have the active encouragement of Mrs. Bohrer. The two of you were wonderful hosts even while you were transients in Washington. I look forward to seeing both of you again soon, when, I hope, you are relieved of the tension produced by a clear case of injustice.

With warmest regards to Mrs. Bohrer and your fishing companions, and with very best wishes to you, I am

Sincerely,

ASH:st

Abraham S. Hyman

P. S. In the midst of dictating this letter, I was called away to a press conference which involved the detention by Iraq of the three Israel citizens who made a forced landing in Baghdad. When I returned, my secretary had transcribed most of the letter. I want to add by way of a postscript what I should have made clear in the body of the letter itself, that Dirksen has not introduced a bill providing for the return of the enemy assets. I was in Dirksen's office and checked this matter with members of his staff. The recommendation to make the return merely appears in the report of the Subcommittee of the Judiciary Committee which inquired into the administration of the Trading with the Enemy Act. I add this only to indicate the very tentative and preliminary nature of Dirksen's package proposal. You can well understand what the chances are of having Dirksen's ideas translated into law during this session of Congress if the matter has not even reached the point where a bill has been drafted to incorporate the proposal.

340882

TO: Dr. Nehemiah Robinson
FROM: Sandy Bolz
RE: S. J. Res. 92 and S. 2477

February 8, 1954

Supplementing my memo of February 2 to you on the above, I have today checked with Dirksen's office and have learned that Dirksen plans to introduce another bill to implement the recommendations of the Subcommittee, whose report I summarized in my previous memo. The time he will do it depends on when one of his assistants has time to write the bill. Accordingly, we will continue to watch the Congressional Record for an indication of any such bill and will have a copy thereof sent to you immediately.

Best regards.

cc- Mr. Hyman ✓

340883

TO: Dr. Nehemiah Robinson
FROM: Sandy Bolz
RE: S. J. Res. 92 and S. 2477

February 2, 1954

I enclose copy of article which appeared in last Thursday's New York Journal of Commerce, summarizing the report of the Dirksen Subcommittee, which was appointed to investigate the conduct of the Office of Alien Property. As you will note, however, its recommendations cover not only the results of that investigation, but also legislation permitting the Government to return alien property to its former German or Japanese owners - together with a number of other recommendations.

At the same time I have just received in the mail this morning from the Subcommittee a copy of its final report, which I requested earlier, and a copy of which I requested at the same time be sent to you, as indicated in the P.S. to my memo to you of December 15. If by any chance the Subcommittee has neglected to send you your copy, let me know and I will have one sent to you at once, so you and Abe can examine it carefully.

I have checked with Wayne Smithy, who is the staff member of Dirksen's other Subcommittee on Return of Vested German Property, and have ascertained that there will probably be no separate report on the hearings which the Subcommittee held on S. J. Res. 92 and several other Senate bills last July, or on S. 2477 introduced by Dirksen following those hearings. It appears that, as earlier indicated to me by the staff of the committee investigating OAP, the recommendations with respect to return of property contained in the current report by the other Subcommittee (same personnel) investigating OAP will be all that they expect to do on this subject. You will note that the Subcommittee's conclusions and recommendations are briefly summarized at pages 68 - 69 of the report. Supplemental views somewhat at variance with various parts of the report, by Langer, Hendrickson, and Kefauver are set forth at pages 70 - 76. You will note in the recommendations that the principal one is for return rather than confiscation or continued administration of German and Japanese properties, and that the first recommendation is to return private property taken by OAP "to individuals not convicted of war crimes", and "holding in trust property of individuals under the domination and control of governments of Communist and Communist satellite nations." Nothing is contained in the recommendations about the treatment of heirless property, which is the subject of our bill, and such a provision would appear to be a natural supplement to the provision for return of property to surviving individuals who own it. Moreover, since many persecutees whose property may have been vested by OAP may now unfortunately live in Poland, Rumania or other countries under Communist domination, vested property belonging to them will, under the Subcommittee's recommendations, be held in trust for them. I doubt that anything could be done to induce the Government,

340884

Dr. Nehemiah Robinson

- 2 -

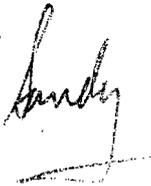
February 2, 1954

instead of holding such property in trust, to turn it over to successor organizations for rehabilitation of other persecutees and refugees.

If anything is to be done about heirless property held by OAP, I think it must be recommended promptly, through our House sponsors, to Senator Dirksen, for inclusion in whatever bills he introduces to carry out the Subcommittee's recommendation.

I suggest you discuss this with Abe and let me know if there is any further information you want me to get about this problem.

Best regards.



SHB:mf

cc- Mr. Hyman ✓

P.S. Apparently Dirksen has not yet introduced any bills to implement the Subcommittee's recommendations. His office advises, however, that his doing so is presently under discussion. I will follow up to see whether or not he introduces any such bills and will let you know what they are and arrange to get you copies.



340 884A

MEMORANDUM

April 3, 1952

TO: Dr. Nehemiah Robinson
FROM: Sandy Bole
RE: Heirless Property Bill

I simply want to confirm that in accordance with your request of February 6 I contacted Abba Schwartz in Sy Rubin's absence to effect a cooperative effort, as you suggested, on getting the above introduced. Schwartz promised cooperation and to keep me informed, but despite numerous phone calls to him I still do not know whether or when he has set up an appointment with Taft. He is a notoriously unreliable fellow, and lately has been largely occupied with some private practice laurus.

But Sy either is or soon will be back in harness, and I expect to talk to him further about it momentarily. I shall let you know what I learn and keep you advised of developments.

I think it is fair to say, however, that nothing is going to happen on this bill at this Session - or the next, for that matter - unless a broad and effective campaign is conducted for it by the JRSO agencies, and accordingly for me to do very much more beyond cooperating on its introduction would only be wasting time. In this connection, I understand from Abe Hyman that he has talked with you about his proposal to handle a really effective, full-time campaign for the bill himself for the next six months, at the same salary rate he now gets as General Counsel for the War Claims Commission, \$11,000 a year. All I can say about this proposal is (1) that long before Abe mentioned it, I had concluded that such a campaign was the only way we could get anywhere with the bill, and that with it we stood a reasonably good chance of passage by this Congress; (2) that there is nobody in the country better qualified to do such a job than Abe; if he goes at it full time, he can plan and conduct it and can then make efficient utilization of the services of Sy and myself - and others - at times and places where they can be most effective. I applaud the suggestion heartily - and hope the JRSO will find funds to finance it.

We had the Senate Subcommittee report on investigation of the Office of Alien Property sent directly to you, and you undoubtedly received it some time ago.

Best regards.

cc- Dr. Petegorsky, Mr. Maslow, Mr. Polier
cc- Mr. Hyman

Sandy Bole

340885

Jewish Restitution Successor Organization

270 MADISON AVENUE

New York 16, N. Y.

September 29, 1953

MEMORANDUM

PERSONAL

To: Abraham Hyman
Seymour J. Rubin

From: Saul Kagan

Attached please find the membership lists of the Senate Judiciary and the House Interstate and Foreign Commerce Committees. I would appreciate an indication from you at what point it would be necessary to get in touch with Congressmen Klein and Heller in connection with the heirless property bill. Gene is making arrangements for an approach to Congressman Wolverton. I would also like to know whether you believe that it is possible to approach any other of the members of the House Interstate and Foreign Commerce Committee. In the event that you feel that there is someone on that Committee besides Wolverton and Crosser who plays an important role on that Committee, I would try to determine whether anyone active in Jewish life in that area can make the desired approach.


Saul Kagan

EK:AUM
Enc.

cc. MAL

MEMBER ORGANIZATIONS

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OPERATING AGENTS

JEWISH AGENCY FOR PALESTINE • AMERICAN JEWISH JOINT DISTRIBUTION COMMITTEE, INC. • JEWISH CULTURAL RECONSTRUCTION, INC.

340886

September 28, 1959.

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Alexander Wiley, Wisconsin
William E. Jenner, Indiana
Arthur V. Watkins, Utah
Robert C. Hendrickson, New Jersey
Everett McKinley Dirksen, Illinois
Herman Welker, Idaho
John M. Butler, Maryland

Democrats

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Harley M. Kilgore, West Virginia
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Estes Kefauver, Tennessee
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Thomas M. Pelly, Washington, Dist. 1
J. Arthur Younger, California, Dist. 9

Robert Crosser, Ohio, Dist. 21
J. Percy Priest, Tennessee, Dist. 5
Oren Harris, Arkansas, Dist. 4
Dwight L. Rogers, Florida, Dist. 6
Arthur G. Klein, New York, Dist. 19
William T. Granahan, Pennsylvania, Dist. 2
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John Bell Williams, Mississippi, Dist. 4
Peter F. Mack, Jr., Illinois, Dist. 21
Homer Thornberry, Texas, Dist. 10
Louis B. Heller, New York, Dist. 8
Kenneth A. Roberts, Alabama, Dist. 4
Morgan M. Maulder, Missouri, Dist. 11
Harley O. Staggers, West Virginia, Dist. 2

Elton J. Layton, Clerk

September 30, 1953.

MEMORANDUM

CONFIDENTIAL

For the Record

At the meeting on September 22, 1953, in connection with the heirless property bill, it was agreed that

1) Congressman Wolverton, Chairman of the House Interstate and Foreign Commerce Committee, will be requested to give this bill priority consideration on the agenda of the Committee.

2) The Office of Alien Property, the War Claims Commission, and the Departments of State and Treasury, will be urged to submit their favorable comments on the pending bills.

3) Dr. Havesi has undertaken to request Mr. Lasrus to talk to Congressman Wolverton and Crosser and to Mr. Habb. Mr. Rubin will approach the Office of Alien Property and the Departments of State and Treasury. Mr. Hyman will be in touch with the War Claims Commission.

Saul Kagan

SK:AUE

cc. EH
AH
SH

340887

per preliminary report to Kagan about this.

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, Inc.

Suite 800

270 Madison Ave., New York 16, N. Y.

TELEPHONE:
LExington 2-5200

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NAHUM GOLDMANN

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Executive Council of Australian Jewry
Jewish Agency for Palestine
Jewish Labor Committee
South African Jewish Board of
Deputies
Synagogue Council of America
World Jewish Congress
Zentralrat der Juden in Deutschland

August 26, 1953

Mr. Abraham Hyman
World Jewish Congress
15 East 84 Street
New York, N.Y.

Dear Abe:

My attention was called to a bill introduced by Senator Dirksen in the Senate on June 27, 1953, S. 2231. I am told that this bill is intended to wipe out all claims of individuals against German assets in this country if the claim "is based upon an obligation expressed or payable in any currency other than currency of the U.S."

This matter appears to be of concern to many German Jews who filed claims with the Office of Alien Property.

You may wish to look into this matter. Please let me know whether you feel that the four organizations should concern themselves with this problem as well. I do not have the text of S.2231 and as I assume that you will be getting it, please be kind enough to order one extra copy for me.

Cordially yours,



Saul Kagan

SK:mc

P. S. Would you send me Perlzweig's itinerary as I understand he will be visiting South Africa, Australia, etc.²

July 21, 1953

Senator Everett H. Dirksen
Chairman, Subcommittee on
Trading with the Enemy Act
Senate Judiciary Committee
The Capitol
Washington 25, D. C.

Re: Supplementary Testimony on S. 2231

Dear Senator Dirksen:

Upon the conclusion of my testimony on S. 2231 at the hearing of the subcommittee Monday afternoon, July 20, you requested that I submit a supplemental statement explaining how the exclusion of claims based upon an obligation payable in foreign currency would adversely affect our clients and suggesting how the bill might be amended to avoid such injury. I am happy to present the following analysis of these two aspects of the bill.

(a) Effect of the bill. The stated purpose of the exclusion of this category of debt claims, as I pointed out in my original testimony, is to remove from recovery under Section 34 "claims of persons who not only invested their money in a foreign economy but expressly agreed to be paid in a foreign currency in a foreign country." (Cong. Rec. June 27, 1953 at p. 7635). However, the language of the exclusion is much broader than that. The bill would exclude any debt claim "if it is based upon an obligation expressed or payable in any currency other than currency of the United States or of the Philippine Islands." Our clients have pending debt claims before the Office of Alien Property under Section 34 of the Act which would probably be excluded as obligations payable in a foreign currency although at no time did our clients invest their money for that purpose or expressly agree to be paid in a foreign currency. The claims of our several clients are based upon the forced sale of their businesses during the period of Nazi persecution prior to the war. Under duress our clients were forced to sell their property for a fraction of what it was worth. These clients who became American citizens prior to the vesting of the assets in the United States of these former businesses are seeking to recover compensation which is justly owed to them. While this type of debt is based upon an obligation payable in German currency, nevertheless it is really an obligation against the entire assets of the business concerned wherever these assets may be located. Certainly these clients neither entered into a contract expressly agreeing to payment in German currency nor did they invest funds for the purpose of obtaining such currency.

340888

Senator Everett M. Dirksen

- 2 -

July 21, 1953

(b) Amendment Proposed. In order to effectuate the stated purpose of the bill in this regard and to protect claimants like our clients who were taken advantage of by German businesses, I suggest that the words "obligation expressed or" in the next to the last two lines of S. 2231 be stricken out and in their place the words be written "investment expressly agreed to be" so that the provision will now read "or if it is based upon an investment expressly agreed to be payable in any currency other than currency of the United States or the Philippine Islands."

Sincerely yours,

Mrs. Charlotte F. Lloyd

CEL:bab

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August 13, 1953

Abba Schwartz, Esq.
1832 Jefferson Place N.W.
Washington, D.C.

Dear Abba:

Thank you for the Congressional Record of July 18th, containing the explanatory statements by Senator Hennings in support of S 2420. I note that in the last paragraph of the third column of Page 9374, Senator Hennings states as follows:

(In the 80th, 81st, and 82nd Congresses, bills were introduced regarding the disposition of such property, with particular respect to its utilization in the United States for relief and rehabilitation purposes." (Underscoring supplied.)

I am sure that the reference to the utilization of the funds in the U.S. was not made on the basis of our representations, as neither the bill itself nor the memorandum submitted by Sy on April 13th to Mr. George Reedy of the Senate Democratic Policy Committee provides any basis for such a statement.

I don't know how this geographical limitation on the utilization of funds by the successor organization crept into the statement, but I wanted to call this to your attention to make sure that it does not find its way into the bill itself. I don't believe that it would be advisable to raise this question with Senator Hennings' office.

I would be grateful if you could send me a copy of S 2420. When is Sy coming back?

Sincerely yours,

Saul Kagan.

340889

MEMORANDUM

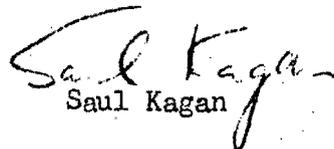
August 11, 1953

To: American Jewish Committee
American Jewish Joint Distribution Committee
Jewish Agency for Palestine
World Jewish Congress

From: Saul Kagan

Reference is made to my memorandum of July 20th, concerning the introduction of bills in the House of Representatives and the Senate providing for the turnover of heirless persecutee assets to an appropriate successor organization. Attached is the text of the explanatory statement by Senator Hennings, which appeared in the Congressional Record on Saturday, July 18th, in support of this measure.

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enc


Saul Kagan

340890

AMENDMENT OF SECTION 32 OF TRADING WITH THE ENEMY ACT

Mr. HENNINGS. Mr. President, on behalf of the Senator from North Dakota (Mr. Langer), the Senator from Nevada (Mr. McCarran), and myself, I introduce for appropriate reference a bill to amend section 32 of the Trading With the Enemy Act, as amended, with reference to the designation of organizations as successors in interest to deceased persons. I ask unanimous consent that my explanatory statement be printed in the RECORD.

The PRESIDING OFFICER (Mr. Hendrickson in the chair). The bill will be received and appropriately referred; and, without objection, the explanatory statement will be printed in the RECORD.

The bill (S. 2420) to amend section 32 of the Trading With the Enemy Act, as amended, introduced by Mr. HENNINGS (for Mr. Langer, Mr. McCarran, and himself), was received, read twice by its title, and referred to the Committee on the Judiciary.

The explanatory statement by Mr. HENNINGS is as follows:

EXPLANATORY STATEMENT BY SENATOR HENNINGS

At the outbreak of World War II the United States, acting under the Trading With the Enemy Act of 1917, seized the assets of the countries with which it was at war, and the assets of their nationals situated in the United States and in the areas over which it exercised sovereignty. This was done in order to deprive the enemy of the economic weapon represented by the assets; and to provide a ready source of reparations for use to satisfy claims arising out of the war.

At the end of the war it became evident that the Trading With the Enemy Act which was originally written during World War I needed to be amended to make it responsive to the developments of World War II. Congress recognized that this act was unfair in that it provided for the seizure of assets of persons who, technically enemy nationals, were actually persons who had themselves been persecuted by the enemy. In August 1946 the Congress amended the Trading With the Enemy Act to provide for the restoration of this class of enemy nationals of their property seized under the act. The amendment did not, however, make any provision for property owned by persons who have been victimized by the enemy and who had died leaving no heirs.

As a result of this situation, the United States is today the ultimate beneficiary of the property owned by persecutees, in those cases where the enemy succeeded in destroying every

vestige of the former owners' family. The bill which my distinguished cosponsors and I have submitted deals with this problem. It provides for the disposition of property for which there are no claimants because the owners and their prospective heirs have died in concentration camps or elsewhere.

In the 80th, 81st, and 82nd Congresses, bills were introduced regarding the disposition of such property, with particular respect to its utilization in the United States for relief and rehabilitation purposes. In the 80th and 81st Congresses the bills passed the Senate on the Consent Calendar and the 81st Congress the bill which reached the floor of the House (S. 603) was approved with certain amendments by the House Interstate and Foreign Commerce Committee. It was objected to on the Consent Calendar and was never given a rule by the House Rules Committee and therefore died with the 81st Congress. In the 82nd Congress, it was sponsored by Senators Herbert R. O'Connor and Robert A. Taft. It was objected to on the Consent Calendar.

In essence, the bill is predicated on the principle that the property of those who had been persecuted should not be used for war claims against the governments that persecuted the owners of such properties.

As indicated earlier for more than 4 years an individual who was so persecuted has been able to obtain his property by establishing a proper claim. There is a large amount of property, however, for which there are no claimants and it is this so-called heirless property which under the bill we are submitting would be turned over to a successor organization, to be designated by the President and its proceeds to be used for relief and rehabilitation.

For different types of property different successor organizations could be designated under the bill, as for instance, a Catholic successor organization for Catholic persecutees; a Jewish successor organization for Jewish persecutees; and a Protestant organization for Protestant persecutees. The procedures outlined in the bill are quite simple and provide merely for a presumption of heirlessness where no claim has been filed for a period of 2 years after vested of the property. The bill provides a top limit of \$3 million in the amount that may be made payable to successor organizations. According to all the information available at this time, the actual amount which could be claimed under the bill would be less than this amount of money.

Similar bills to this one have also been introduced in the House of Representatives by Representatives WOLVERTON and CROSSER. The principle incorporated in these bills have been endorsed by the Departments of State, Justice, and Treasury, by the United States War Claims Commission and by former Senator O'Connor and Senator Taft as well as my cosponsors. This is an equitable and constructive piece of legislation which, insofar as I know, has no opposition and I trust it will be readily enacted by the Congress at this session.

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340892

July 22, 1953

Mr. Langdon West
Administrative Assistant to
Senator Thomas C. Hennings, Jr.
Washington, D. C.

Dear Mr. West:

I cannot tell you how much I appreciate the work you have done in securing the introduction of the hairless property bill in the Senate. In my opinion, the sponsorship secured for the bill is as strong as could be obtained. I am now confident that the bill has an excellent chance of enactment at this session of the Congress. Senator Hennings' statement which accompanied the introduction of the bill in the Senate was indeed an interesting one. It shows a complete understanding of the issues involved. I know that when the bill is enacted, Senator Hennings will be proud of his sponsorship of this measure.

With warmest regards, I am

Sincerely,

ASH:st

Abraham S. Hyman
Administrative Director

340893

Memorandum from AMERICAN JEWISH CONGRESS

927 - 15th STREET, N.W., WASHINGTON 5, D. C. • EXECUTIVE 2674

SANFORD H. BOLZ—*Washington Representative*

TO: Abe Hyman
FROM: Bob Raives
RE: Heirless Property Bill - S. 2420

July 20, 1953

Pursuant to our telephone conversation of this afternoon, I am enclosing herewith the text of the remarks which Senator Hennings made when he introduced the above bill. As I told you over the phone, you have every reason to be gratified over the results of your efforts down here!

As I understand it, it has been decided between Abba Schwartz, Sy Rubin, and yourself that no effort will be made to push the bill through in this session of Congress but that an all-out effort will be made during the next session. You also advised that we should just sit tight down here unless and until we hear from you.

Best wishes for pleasure and success on your trip to Geneva.

Best regards.



COPY

JACOB BLAU STEIN

AMERICAN BUILDING
Baltimore 3, Md.

July 20, 1953

Mr. Saul Kagan
Conference on Jewish Material
Claims Against Germany
270 Madison Avenue, Suite 800
New York 16, N.Y.

Dear Mr. Kagan:

Mr. Blaustein has asked me to advise you that he has been informed by Mr. Stephens Mitchell's office that the heirless property bill was introduced in the Senate last Saturday by Senators Hennings, Langner and McCarran.

It is felt that the joinder of Senator McCarran and Senator Langner will be very helpful, the latter being chairman of the Committee.

Mr. Blaustein is assured that every effort will be made to get the bill through at this session although the shortness of time is a barrier.

Sincerely,

/s/ C.J. Thomas

Secretary

340895

July 20, 1953

**TESTIMONY ON S. 2231 TO AMEND THE TRADING WITH
THE ENEMY ACT RELATING TO DEBT CLAIMS.**

Presented by Mrs. Charlotte F. Lloyd, associated with the Washington office at 810 - 18th Street, N. W. of the law firm of Riegelman, Strasser, Schwarz & Spiegelberg, 160 Broadway, New York City.

Presented to the Subcommittee on the Trading with the Enemy Act of the Senate Committee on the Judiciary.

Mr. Chairman, I appreciate the opportunity to testify with respect to S. 2231, a bill to amend the Trading with the Enemy Act relating to debt claims. I will address my remarks entirely to the latter part of the bill which proposes to exclude from the coverage of section 34(a) a category of debt claim on the ground that "it is based upon an obligation expressed or payable in any currency other than currency of the United States or the Philippine Islands". This is the second of the two exclusions stated in the bill.

The reason for this second exclusion is given by the chairman in his statement presented to the Senate on Saturday, June 27 and included in the Congressional Record for that date at page 7635. The Chairman stated that "the United States is not under any moral obligation to permit external enemy assets seized by the United States to be utilized for the payment of claims of persons who not only invested their money in a foreign economy but expressly agreed to be paid in a foreign currency in a foreign country". This statement had particular reference to the purchase of yen certificates which provided on their face value for payment in yen in Japan.

I would like to point out in the first place that the language of the proposed exclusion could cover a great many more types of transactions

340896

than those described in this statement. The bill would exclude recovery under Section 34 upon any debt which originally was payable in a local currency. Many American citizens and residents who before the war were in Germany or other foreign country which later became an enemy or who were engaged in business dealings with businesses in such foreign countries became creditors of foreign businesses there. On the onslaught of the war they were no longer able to collect these debts in the enemy countries and even at this time they may have no reasonable way to collect the debts from assets in those countries. These American taxpayers should be free to recover from the assets of such debtors held in this country for the express purpose of benefiting the American creditors.

Since the purpose of the exclusion is to exclude debt claims based upon investments expressly made for payment in currencies of foreign countries, and particularly yen certificates as the principal category, I respectfully suggest to the Committee that the language of the exclusion be appropriately limited to such express investments, in order to prevent injury to American taxpayers who did not expressly agree with the enemy debtors for recoveries solely in the currencies of the enemy countries.

This bill would cut off the only remedy in this country available to American creditors against the assets in this country of the foreign debtor. To obtain payment from these assets creditors have already gone to a great deal of trouble and expense in assembling necessary evidence and in preparing and presenting cases before the Office of Alien Property. Some cases have been before that Office for years and are on the point of decision. All this effort and expense of the American claimants would be wasted if this bill were passed in its present form. Thus, the passage of this bill would benefit foreign

debtors and cause loss to the American creditors who have not been fortunate enough to have had their cases already decided by the Office of Alien Property.

340097A

CONFIDENTIAL

MEMORANDUM

July 20, 1953

To: American Jewish Committee
American Jewish Joint Distribution Committee
Jewish Agency for Palestine
World Jewish Congress

From: Saul Kagan

Subject: Heirless Property Bill in U.S. Congress

1) The four organizations have decided at the beginning of this year to make an intensive effort to bring about the passage of a bill turning over heirless assets of victims of Nazi persecution, which have been seized under the Trading with the Enemy Act.

2) The effort was directed in the first instance to bring about the introduction of bills under important Congressional sponsorship in the Senate and the House. The effort in the Senate was aimed at persuading Senator Taft to continue as the sponsor of this measure as he did in the 82nd Congress. Senator Taft's office suggested that we first determine whether Sen. Johnson, the Senate Minority Leader, will be prepared to co-sponsor the bill. During the past two months Mr. Rubin and Mr. Schwartz were in touch with Sen. Hennings, whom the Senate Democratic Policy Committee requested to make a recommendation with respect to this matter, following Mr. Blaustein's representations with the Chairman of the Democratic National Committee. Sen. Hennings as well as the staff of the Senate Judiciary Committee had recommended the introduction of this bill. Sen. Taft's illness made his active interest in this measure highly improbable. Sen. Hennings obtained the sponsorship of Sen. Langer (Rep.) and Sen. McCarran who, together with him, introduced in the Senate on July 18th Bill #S2420.

3) In the House Mr. Hyman succeeded in persuading Mr. Wolverton (Rep.) to introduce the necessary bill as Number H.R. 5675 and Mr. Crosser (Dem.) under Number H.R. 5952. Representatives Wolverton and Crosser are the chairman and leading minority member respectively of the House Committee on Interstate and Foreign Commerce, which will have to report out the bill.

/...

340898

It is clear that no further action on these bills is possible in the House and Senate prior to the adjournment of Congress.

It will be necessary for the four organizations to meet early in September to work out a detailed program for action on this bill during the next session of Congress.

SK:mc

Saul Kagan
Saul Kagan

STATEMENT BY SENATOR THOS. C. HENNINGS, JR (D-Mo.)
ON INTRODUCING "HEIRLESS PROPERTY" BILL.

U. S. Senator Thomas C. Hennings, Jr. (D-Mo.) today introduced a bill to provide that property in this country owned by victims of Nazi persecution who died in concentration camps or elsewhere, leaving no heirs, could be used for the relief and rehabilitation of refugees of such persecution. The bill would authorize the President to designate organizations as successors in interest to such persons. Senators Patrick J. McCarran (D-Nev.) and Williams J. Langer (R-N. D.) joined Hennings in the sponsorship of the bill.

Senator Hennings in explaining the bill stated that similar measures were introduced in the 80th, 81st and 82nd Congresses but failed of passage; that in the 80th and 81st Congresses the Senate adopted the bill unanimously and in the 81st Congress it was approved with minor amendments by the House Interstate and Foreign Commerce Committee but because of the crowded legislative calendar, was not enacted. In the 81st Congress the bill was sponsored by Senator Robert A. Taft of Ohio and former Senator Howard McGrath of Rhode Island and Representatives Robert Crosser of Ohio and Charles A. Wolverton of New Jersey. It was again sponsored by Senator Taft and former Senator Herbert R. O'Connor of Maryland in the 82nd Congress. Companion measures have been introduced in the House of Representatives in the 83rd Congress again by Representatives Crosser and Wolverton. The bill has had the approval of the Departments of State, Justice and Treasury, the Senator said, as well as the United States War Claims Commission. The Senator added that the principle of the proposal is in line with the clearly established policy of the United States and in the previous Congresses no testimony had ever been offered in opposition to it.

Senator Hennings further stated that at the outbreak of World War II, the United States, acting under the Trading With the Enemy Act of 1917, seized the assets of the countries with which it was at war, and the assets of their nationals situated in the United States and in the areas over which it exercised sovereignty. This was done in order to deprive the enemy of the economic weapon represented by the assets; and to provide a ready source of reparations for use to satisfy claims arising out of the war.

At the end of the war the Senator explained that it became evident that the Trading With the Enemy Act which was originally written during World War I needed to be amended to make it responsive to the developments of World War II. Congress recognized that this Act was unfair in that it provided for the seizure of assets of persons who, although technically enemy nationals, were actually persons who had themselves been persecuted by the enemy. In August, 1946, the Congress amended the Trading With the Enemy Act to provide for the restoration to this class of enemy nationals of their property seized under the Act. The amendment, Hennings pointed out, did not, however, make any provision for property owned by persons who have been victimized by the enemy and who had died leaving no heirs.

As a result of this situation, Hennings declared, the United States is today the ultimate beneficiary of the property owned by persecutees in those cases where the enemy succeeded in destroying every vestige of the former owner's family. The bill, said Hennings, deals with this problem. It provides for the disposition of property for which there are no claimants because the owners and their prospective heirs have died in concentration camps or elsewhere. The Missouri Senator explained further that, for different types of property, different successor organizations could be designated under the bill, as for instance, a Catholic successor organization for Catholic persecutees; a Jewish successor organization for Jewish persecutees; and a Protestant organization for Protestant persecutees. The procedures outlined in the bill are quite simple and provide merely for a presumption of heirlessness where no claim has been filed for a period of 2 years after vested of the property. The bill provides a top limit of 3 million dollars in the amount that may be made payable to successor organizations. According to all the information available at this time, the actual amount which could be claimed under the bill would be less than this amount of money.

July 15, 1953

Mr. John Martin
U. S. War Claims Commission
7 and E Streets NW
Washington, D. C.

Dear John:

I cannot tell you how much I appreciate your effort to secure for me the reports on my present obsession in Washington, the hairless property bill. As I indicated to you just before I left, in order to complete the file, I need the Senate Report 784 on S603 introduced in the 81st Congress. If you can get a copy of this report to me, there will be no excuse for me not to become the country's leading expert on the bill in question.

I want to do some work on this bill before I leave for Geneva on July 26, and therefore will ask you to consult the Senate document for the report at your earliest convenience.

Most people who come to Washington in the summer are not conscious of anything but its humidity. I cannot say that I was not aware of the wetness of the air in the capital. However, I confess that I was even more aware of the friendliness with which I was greeted by everyone at the Commission. It was really good to see all of you.

With warmest regards, I am

Sincerely,

ASH:st

Abraham S. Hyman

340900

July 15, 1953

Mr. Saul Kagan
Conference on Jewish Material Claims
Against Germany
270 Madison Avenue
New York City

Dear Saul:

I am enclosing a memo that I hastily prepared for Dr. Goldstein immediately prior to his departure. I am sure you understand that the recommendations I made as to what further steps should be taken in promoting the heirless property bill, are not definitive in nature. Much more can be done and should be done to cram this bill through the present Congress.

I am enclosing a copy of S. J. Res. 92, the bill introduced by Sen. Chavez, which calls for the return of the assets to the Germans, and H.R. 5675 and H.R. 5952, the heirless property bills introduced in the House by Wolverton and Crosser respectively.

I plan to call Sen. Hennings' office tomorrow to ascertain whether the bill has been introduced in the Senate. I shall keep you posted on developments.

With kind regards, I am

Sincerely,

ASH:st
enc.

Abraham S. Hyman

340901

July 13, 1953

To: Dr. Goldstein
From: Abraham S. Hyman

Progress on Congressional legislation on heirless property in the U. S.

A. Steps taken

In three successive Congresses (the 80th, 81st and 82nd), attempts have been made to legislate the surrender to a successor organization of the property of victims of Nazi persecution who died heirless. Under the Trading with the Enemy Act as it was amended in 1946, persecutees or in the event of their death their survivors, were exempt from the provision of the law under which the assets of enemy nations were seized. However, the property of persecutees who died heirless, remained subject to seizure and administration under the Trading with the Enemy Act and are today liquidated and used to pay claims against Germany and Japan and the other former enemy countries. The measures introduced in the three Congresses were designed to remedy the situation by providing that the property of heirless persecutees be turned over to a successor organization for the relief and rehabilitation of the surviving victims of the group to which the deceased persecutee belonged.

None of the bills introduced in the previous sessions of the Congress have ever been up for approval after debate. Each time they have been placed on the consent calendars of either one or both Houses of the Congress. The closest the bill came to enactment was in the 81st Congress when the bill passed the Senate on the consent calendar. In the House it also came up on the consent calendar, but was objected to by Congressman O'Hara from Minnesota. No further action having been taken on the bill in the 81st Congress, the bill expired with the termination of the 81st Congress.

In the 82nd Congress the bill was introduced in the Senate by Senators Taft and O'Connor. This time when it came up on the consent calendar in the Senate, it was objected to by Sen. Chavez and one other Senator, and consequently was shelved. No companion bill was introduced in the House during the 82nd Congress.

Shortly after I came to the Congress, I undertook to do something about this bill. On the basis of my experience as General Counsel of the War Claims Commission, I felt that the objection to the bill came from those who feared that the enactment of this measure would open the door wide to those who advocated the return of German assets to their former owners, and that such property would jeopardize the War Claims Fund which is the source for the payment of prisoner of war and other claims. Before I left the War Claims Commission, I had participated in negotiations which looked to an early settlement of the money question so far as the War Claims Commission was concerned, and felt that with the prospect of an early settlement of this phase of the problem, we would have no difficulty in pushing through the heirless property bill.

Since coming to the Congress, I have taken the following steps in the promotion of the heirless property bill:

1) I wrote an article entitled "The Hairless Property Paradox" which was published in the June 1 issue of the Congress Weekly.

2) I wrote a letter to the New York Times published in the June 19th issue. The burden of the article and the letter was that aside from the fact that justice dictated that we do not profit by the genocide practiced by the enemy, the U. S. should be willing to treat hairless property in the U. S. on the same basis as it required Germany and the satellite countries to deal with the same property situated in those countries.

3) The first part of June I spent two days in Washington and persuaded Mr. Walverton, Chairman of the House Foreign and Interstate Commerce Committee, (the Committee to which the hairless property bill would be referred), to introduce the hairless property bill in the House. This he did on June 10th, HR5675. I also persuaded Mr. Cresser, ranking Democratic member of the House Foreign and Interstate Commerce Committee, to sponsor the measure. After promising to introduce the bill, he presumably forgot about it, and after some prodding on my part, Cresser introduced the bill on June 26th HR5952. The same day that Walverton introduced the bill, he introduced into the Congressional Record the article which I had prepared for the Congress Weekly.

4) On July 7th I went to Washington with the thought of taking the matter up with the Rules Committee of the House. I acted on the assumption that if I could get a commitment from the members of the Rules Committee that they would give the House bill a rule (that is, authorized it to be presented to the House for debate), I would then urge upon the House Foreign and Interstate Commerce Committee to report the bill out, all of which might result in the enactment of the bill before the adjournment of Congress the end of this month. When I came to Washington, I found that my contact with the Rules Committee was not in Washington as he had promised to be, due to the fact that he had missed his plane. When I finally talked to him on Wednesday, I was convinced that it would take a superhuman effort to get action on the bill at this session of Congress. In view of this, I concluded that I would utilize one day in getting the bill advanced to the point where it would be introduced in the Senate. Abba Schwartz of Sy Rubin's office had done some work in following up on some groundwork laid by Mr. Blaustein in getting Democratic sponsorship for the bill. I was assured before I left New York that the bill would be introduced no later than July 6th. However, when I came to Washington, I found that no action had been taken in securing definite Democratic sponsorship for the bill. After conferring with Abba Schwartz, I discussed the matter with Sen. Hennings' assistant (Senator Hennings had received the go-sign from the Chairman of the Democratic National Committee at the instigation of Mr. Jacob Blaustein). The bill then got moving. It was sent to Sen. Clements' office. He is the minority whip in the Senate. It was returned to Sen. Hennings' office with instructions for him (Sen. Hennings) to sponsor the bill. Mr. Langdon West of Sen. Hennings' office told me that Clements might also appear as one of the sponsors. There was one question which was still unresolved, namely, the matter of getting Republican sponsorship for the bill. Knowing that the bill would bog down if I left it altogether to Sen. Hennings' office to secure Republican sponsorship, I offered my services to approach Sen. Langer,

Chairman of the Senate Judiciary Committee, with the view of getting his support for the bill. This offer was readily accepted, and I spent Thursday afternoon and Friday afternoon in getting Langer's sponsorship. As of 3 o'clock last Friday, Langer told me "I am inclined to introduce this bill along with Sen. Hennings." In view of the fact that Langer had had from Thursday afternoon to Friday afternoon to study the measure, I am inclined to feel that Langer will fulfill his tentative promise to me. Langer's Committee is the Committee to which the bill will be referred once it is introduced in the Senate.

While in Washington, I also took the opportunity to educate Mrs. Georgia Lusk, Vice-Chairman of the War Claims Commission, on the merits of the bill. It is my understanding that she was primarily responsible for the objection which Chavez interposed to the bill in the 82nd Congress. I found that considerable headway had been made in the solution of the War Claim Commission's financial problems, and in general I feel now that Mrs. Lusk will no longer stand in the way of the enactment of the measure. I also talked to other members of Congress about the bill and feel that there is a genuine sympathy for the measure once the issues are understood.

B. Steps to be taken

I am convinced of the following:

- 1) It is not possible to secure the enactment of the bill prior to the adjournment of Congress scheduled for between July 31 and August 10.
- 2) We cannot, in view of the many complex problems which have arisen with respect to German assets, depend upon getting the measure enacted on the consent calendars of either of the two Houses. We must insist that the Rules Committee of both Houses give the bill the right of way. I do not envision that anyone will dare to oppose the bill on its merits once it is presented to the Congress for debate.
- 3) We must utilize the time between now and the time the Congress reconvenes to educate the individual members of the House Foreign and Interstate Commerce Committee and the Senate Judiciary Committee so that the Chairmen of the respective Committees may meet with no resistance in getting the bills reported out. With this in view, I would strongly recommend that no later than September, the American Jewish Congress (Commission on Law and Social Action), the American Jewish Committee, JDC and the Jewish Agency, form a committee consisting of prominent lawyers, jurists and men in public life, ^{who} would sign a statement which could be circulated among the members of Congress in general and among the members of the two vital Committees in particular. In view of my familiarity with the subject matter, I would undertake to prepare the statement in which I would review the history of the bill, and would indicate the support which the bill had received from members of Congress and departments of the government. I would also undertake to approach Gen. Clay and Mr. McCloy who, I believe, would join the group of sponsors I have mentioned above.

4) I understand that in his administration, Truman was briefed on the importance of this bill and that he threw his entire weight behind the measure. For example, I know that the Bureau of the Budget made representations to the War Claims Commission to give a favorable report on the bill during the 81st session of the Congress. I recommend that somebody on the top level see Eisenhower or one of his closest aides, and point out to him that this must become must legislation on the President's program. Although the amount of money involved is rather small (it will be observed that there is a limitation of three million dollars on the amount which can be returned), it is obvious that the principle involved is exceedingly important. I think that it can be safely anticipated that once this matter is brought to Eisenhower's attention, he will give it the green light.

I have discussed the matter with Will Masox of the CLSA, and he agrees with me on the foregoing course of action.

Memorandum from AMERICAN JEWISH CONGRESS

927 - 15th STREET, N.W., WASHINGTON 5, D. C. • EXECUTIVE 2674

SANFORD H. BOLZ—*Washington Representative*

TO: Abraham Hyman
FROM: Sandy Bolz
RE: Heirless Property Bill

July 2, 1953
(Dictated July 1)

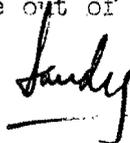
Confirming our telephone conversation of yesterday, I am enclosing copy of the article from yesterday's Journal of Commerce concerning the introduction by Senator Chavez of S. J. Res. 92 to return to Germany all property of German citizens/^{seized} by the U. S. Government during the war, the value of said seized and returned property to be deducted from Germany's share in mutual security funds.

As I indicated to you over the phone, the details of Chavez's resolution in this article are too ambiguous to permit a conclusion as to its possible adverse effect on our Heirless Property Bill, but my own hunch is that its net effect probably will be adverse, although I realize you feel that it may be favorable because it at least indicates that Chavez favors the return of vested property held by the United States.

As promised, I am proceeding to obtain for you copies of the resolution, and of any press release issued by Chavez in connection therewith, and will send these to you together with the speech he made on the floor in introducing it, from the Congressional Record.

I await further word from you regarding possible appointment with Langer and my taking the bill up thereafter with Kefauver, who will be out of town until July 13.

Best regards.



cc- Dr. Petegorsky, Mr. Maslow

340905

GERMAN PROPERTY RETURN PROPOSED - Chavez Move Would Seek to End Litigation Over General Aniline

Legislation which would have the effect of returning to Germany all property of German citizens seized by this Government during the war has been introduced in Congress by Sen. Dennis Chavez (Dem., N. M.).

Under the terms of Senator Chavez's resolution (S. J. Res. 92) the value of the seized property returned to Germany would be deducted from that country's share in mutual security funds.

It is understood that one effect of the Chavez resolution would be an end to the present litigation over the General Aniline & Film Corp. stock now held by the Government and being claimed by Interhandel, A Swiss holding corporation. Interhandel has entered into an agreement to sell this stock to Blair Holdings Corp. if its title is recognized by the Government.

In introducing this resolution, the N. M. Democrat pointed out that it would follow the precedent established after World War I and followed after World War II with respect to property confiscated from Italian enemies.

Senator Chavez said that the continued retention of these assets by the Government "is inconsistent with the whole trend of our postwar foreign policy, because it has largely nullified our intensive and costly efforts to win the good will of the people of Western Germany and Western Europe."

Other points made by the N. M. Democrat in favor of his resolution is that the retention of the German assets has forced the U. S. Government to engaged in private business "on a scale never foreseen or intended by Congress"; that it has saddled the Government with a heavy burden of administration and litigation; and that it has in some cases resulted in a deterioration of the property "with a consequent loss in the economic vigor and productive capacity of the free world."

The German property held by the Government, Senator Chavez said, has a value of \$384,869,000. He added that this was a tenth of the sum of \$3,891 million "which we have expended in Germany to rehabilitate and strengthen that country since the end of hostilities."

The Chavez resolution has been referred to the Committee on the Judiciary.

From the desk of
Sanford H. Bolz
927 Fifteenth Street, N. W.
Washington 5, D. C.

7/2

Abe -

Re the attached memo from
Bob, we also want you to
note the final provision of the
bill (p. 3) for transfer of the
NSA funds representing the
returns to Germany - to the
War Claims Fund -
indicating Chavez is still
concerned with preserving
the integrity of the WC Fund.
But re our bill, it could be
brought home to him that
if the JNSO is made a legal
"successor" to Jewish heirless
property by passage of our bill,

From the desk of
Sanford H. Bolz
927 Fifteenth Street, N. W.
Washington 5, D. C.

This bill would result in the
equivalent of that amount in
NSA funds being transferred
to the War Claims Fund -
which this cannot suffer
in any way from passage of
our bill.

Of course, it will still mean
in effect 3,000,000 in NSA
funds being diverted from Germany
to JNSO, etc. He may be
concerned about that possibly.

Handy

340907

Memorandum from AMERICAN JEWISH CONGRESS

927 - 15th STREET, N.W., WASHINGTON 5, D. C. • EXECUTIVE 2674

SANFORD H. BOLZ—*Washington Representative*

TO: Abe Hyman

July 2, 1953

FROM: Bob Raives

RE: S. J. Res. 92 (Chavez) - To Return Vested German Property

In accordance with Sandy's phone conversation with you on the above, I am enclosing herewith a copy of Chavez's bill, together with a mimeographed copy of the speech he made on the floor of the Senate at the time he introduced the bill. He did not issue a press release on the subject.

As I read the bill, it does not appear to be inconsistent with the concept of our Heirless Property Bill for, as you will note, it provides that the property shall be returned to the owner "or to the legal representative or successor, as the case may be, of such owner, if the owner be dead or if its existence shall have been in anywise terminated."

Let us know if you have any questions on the bill and we will attempt to run them down for you.

Best regards.

Bob Raives

83^D CONGRESS
1ST SESSION

S. J. RES. 92

IN THE SENATE OF THE UNITED STATES

JUNE 27, 1953

Mr. CHAVEZ introduced the following joint resolution; which was read twice
and referred to the Committee on the Judiciary

JOINT RESOLUTION

To return property vested under the Trading With the Enemy Act as the property of Germany or German nationals, or in which they had any interest.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That, notwithstanding any existing law to the contrary, all
4 property (or its net proceeds) of every character or de-
5 scription which was vested after December 7, 1941, by
6 the Alien Property Custodian, or his successor, the Attorney
7 General of the United States, under the Trading With the
8 Enemy Act, as the property of Germany or of German
9 nationals, or because it was believed that (a) Germany or
10 nationals of Germany had any interest therein or owned or

1 controlled the same or any portion thereof, or (b) that the
2 owner thereof was acting directly or indirectly, partly or
3 wholly, for or on behalf of Germany or of nationals of Ger-
4 many, shall be returned to the person, firm, trust, associa-
5 tion, or corporation who or which was the owner thereof
6 at the time of such vesting, or to the legal representative or
7 successor, as the case may be, of such owner, if the owner
8 be dead or if its existence shall have been in anywise termi-
9 nated. Increment received upon such vested property shall
10 also be delivered and paid over to such owner: *Provided,*
11 *however,* That no return shall be made to the East German
12 Government or to those who reside or have their domicile
13 exclusively in the Russian Zone of Occupation in Germany:
14 *And provided further,* That an amount equal to 20 per
15 centum of the aggregate value of such money or other prop-
16 erty shall be retained by the Government of the United
17 States as reimbursement for the administration costs and
18 expenses of the Office of Alien Property; and no money
19 or other property shall be returned unless the person entitled
20 thereto under the terms of this resolution files a written con-
21 sent to such 20 per centum retention.

22 SEC. 2. Funds appropriated by the Congress and allo-
23 cated by the Mutual Security Agency for the Western Ger-
24 man Government shall be decreased by the value of the
25 above-described property: *Provided, however,* That such

1 decrease shall not exceed in the aggregate the sum of
2 \$250,000,000; and moneys equaling the amount of such de-
3 crease shall be transferred to the War Claims Fund to be
4 administered under the provisions of the War Claims Act of
5 1948.

340911

CLERK

83^d CONGRESS
1ST SESSION

S. J. RES. 92

JOINT RESOLUTION

To return property vested under the Trading
With the Enemy Act as the property of
Germany or German nationals, or in which
they had any interest.

By Mr. CHAVEZ

JUNE 27, 1953

Read twice and referred to the Committee on the
Judiciary

340912

340912

ADDRESS BY SENATOR DENNIS CHAVEZ (D-NM)
IN THE SENATE OF THE UNITED STATES

MR. PRESIDENT:

It is my sincere belief that peace in Europe cannot be obtained without the complete cooperation of the German people. In the war the full conquering of Germany occurred some eight years ago. However, to this date, Germany is divided into two different zones - West Germany and East Germany. There is no reason whatsoever why they should not be just Germany and not West Germany and East Germany. However, we know that West Germany, notwithstanding that they are allowed a certain amount of self-determination, the zone is occupied by American, English and French military troops. It is my purpose to try to analyze that situation and see what can be done about it. Whether we like it or not, East Germany is occupied by troops from Soviet Russia and its satellites.

The recent strikes and riots in East Germany throw light on an important development in the world struggle against Communism. They constitute proof that Russia has failed miserably in her effort to win the support of the German people. Even in Russia's own occupation zone, where the citizenry is subject to every form

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of coercion by secret police and propaganda, the German people have now spectacularly demonstrated the revulsion with which the Soviet system inspires them.

So far, however, the danger of Russian aggression against Western Europe has not been reduced much by this acute unrest behind the Iron Curtain. The outcry for freedom has been brutally silenced, and the Russian war machine remains just as strong as it was before.

Our government has recently acted with wisdom and energy in allocating \$50 million to strengthen West Berlin now, at what may ultimately prove to be a crucial turning point in the cold war. This action, which will be applauded throughout West Germany, constitutes further official recognition of the fact that the security of Western Europe depends largely upon the citizens of West Germany and if possible a United Germany. These millions of industrious and capable people occupy a position of immense strategic significance. Their contribution in manpower and productivity is indispensable to the success of our entire Western European defense system. Therefore, to win the enthusiastic support of the West German people, and if possible all German people, for the policies

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of ourselves and our allies should be a cardinal objective of United States foreign policy.

My purpose in speaking to you on this occasion is to point out how one illogical policy of ours continues to embitter our relationship with West Germany, and thus to jeopardize the safety of the whole free world.

Today, eight years after the end of hostilities in World War II, our government still holds hundreds of millions of dollars worth of West German property vested under the Trading With the Enemy Act. The prolonged retention of this property is inherently unjust, and has created serious problems for the United States.

First, and in my judgment most important, our retention of vested West German property is inconsistent with the whole trend of our postwar foreign policy, because it has largely nullified our intensive and costly efforts to win the good will of the people of Western Germany and Western Europe---so important to our whole European defense structure.

Secondly, it has caused our government to engage in private business on a scale never foreseen or intended by Congress.

Thirdly, it has saddled the government with a tremendous burden of administration and litigation.

Fourthly, it has in some instances resulted in the deterioration of vested properties, with a consequent loss in the economic vigor and productive capacity of the free world.

So solve all these problems, I will introduce a bill for the consideration of Congress, proposing complete return of all West German properties vested during World War II and, in consequence, the substantial liquidation of the Office of Alien Property.

To return this property now seems to me to be the course of justice as well as expediency. German property in the United States was quite properly seized by our government during World War II, in order to prevent the German government from using it to support its own war effort or to hinder ours. But --- with the end of the war, the punishment of the Nazi war criminals and the establishment of a democratic West German government friendly to the United States -- there is no longer any justification for our holding assets which rightfully belong to individual citizens of West Germany. To retain them is to impose a discriminatory and adventitious penalty on these

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individuals for their former enemy status, over and above any penalty meted out to the German people collectively.

Let me emphasize that it is not the purpose of the legislation which I will propose to permit the return of any property to individuals adjudged guilty of war crimes by Allied occupation tribunals or by German denazification courts. Neither is the purpose of the proposed legislation to bring about the return of property to German Nationals now residing in East Germany or elsewhere behind the Iron Curtain. If and when we have a united Germany, this country can then consider the return of individual German property to citizens of East Germany.

Since the proposed legislation would return to West Germany assets of very considerable value, I further propose that its enactment be accompanied by a sizable reduction of Mutual Security Agency Funds or other aid funds now earmarked for Western Germany. The funds thus deducted should be made available to the War Claims Commission for payment of all war claims.

At this point I would like to examine in greater detail the most important disadvantage of our present policy of confiscation of

German property: the fact that it actually conflicts with our overall foreign policy of strengthening Western Germany as a bulwark against Communist aggression.

Since the end of the actual war with Germany our policy toward that country has appeared to suffer from a split personality. We have been giving with the right hand, building good will, and taking away with the left, creating animosity. From the cessation of hostilities until December 31, 1952, the United States poured out around \$3,891,000,000 to rebuild the West German economy and to transform West Germany into a reliable ally. During the same period of time, through the medium of the Office of Alien Property and the Trading With the Enemy Act, our government continued to carry out a policy of confiscating private German property, apparently oblivious to the fact that such a policy was becoming increasingly unrealistic and disadvantageous to the United States. By indefinitely retaining vested German property we have actually been making enemies of many of these people whose friendship we need so badly.

Our government has even seized the property of American citizens because of their alleged business connection with German nationals,

until recently the Office of Alien Property was confiscating proceeds of Social Security, life insurance and other property of deceased American citizens whose heirs are nationals of Germany. There have even been instances where the proceeds of life insurance and Social Security left by deceased American soldiers were seized because those veterans had one heir, a mother, in Germany. I think most Americans will agree with me that it is time, and more than time, to rectify such manifest injustices.

Our present alien property policy has antagonized many basically democratic and pro-American citizens of West Germany. Thus, it is completely out of harmony with the basic objectives of our foreign policy.

The Annual Report of the Office of Alien Property shows that alien property vested between March 11, 1942 and June 30, 1951 had a total value of \$384,869,000. True, this is only one tenth of the sum of \$3,891,000,000 which we have expended in Germany to rehabilitate and strengthen that country since the end of hostilities. Nevertheless, our retention of vested German property arouses resentment in West Germany, on the ground that we are still treating this

new and important ally of ours like a conquered enemy country. This resentment very probably counterbalances and at least seriously undermines the good will created by the billions we have laid out to rebuild West Germany from its shattered and prostrate postwar state.

The expenses of administering this vested property already amount to some \$40,000,000. The cost of administering the War Claims Fund, which receives proceeds realized from vested property, amounts to \$900,000 every year.

The Office of Alien Property is completely enmeshed in a net of complicated lawsuits. It is generally conceded that the prospect of finally closing out this office is nowhere in sight. Meanwhile, the War Claims Commission have very little funds left, and the Office of Alien Property is doubtful that it can advance any more funds at this time.

This Gordian knot of litigation and confusion can best be cut, in my judgment, by returning all vested West German property forthwith. As compensation for our past administrative expenses, we should levy a 20 per cent custodial charge before returning the funds now in our hands. This charge is justified by precedent in

this country after the first World War as an indemnity payment against the cost over the years of administering alien property.

To sum up, I recommend that we immediately enact legislation to pay off all remaining claims of prisoners of war and other beneficiaries of the War Claims Act, and to return all vested West German enterprises, property, and funds. This would follow the precedent established in our dealings with Germany after World War I, and confirmed after World War II by our return of property confiscated from Italian enemies.

Payment of war claims could be accomplished by deducting \$250,000,000 from funds appropriated for the Mutual Security Agency. These funds, turned over to the War Claims Commission, would more than suffice to pay all existing war claims and also to return to the Office of Alien Property the \$155,000,000 already advanced for the payment of war claims under the War Claims Act of 1948.

This proposal -- if adopted by Congress -- will substantially eliminate the troublesome task of administering vested alien property. Even more important, it will advance our foreign policy by giving West Germans a positive demonstration of the fact that we are

sincere in our desire to rehabilitate their country and to work with them in the world struggle against Communism.

I recognize that many of my distinguished colleagues, notably the members of Senator Dirksen's subcommittee, have an intimate and highly specialized knowledge of the alien property aspect of the legislation which I am proposing. It is therefore likely that improvements can be made to further the objectives of this proposed joint resolution.

340922
SCOPE

June 9, 1953

Hon. Charles A. Wolverton
House of Representatives
Washington, D. C.

Dear Mr. Wolverton:

I want to express to you my appreciation for the courtesy you extended to me in giving me the opportunity to discuss with you the heirless property bill at a time when you were obviously under such terrific pressure. When I returned to New York, I reported to the leadership of the American Jewish Congress as well as of the World Jewish Congress the results of my conference with you. They were tremendously pleased to learn that the interest which you showed in this proposed piece of legislation has continued to date and that as concrete evidence of this interest, you would sponsor the bill.

Frankly, I cannot see how anyone familiar with the issues involved in the bill could rationally oppose it. The bill would not only bring our domestic policy in line with our foreign policy, but in my opinion what is more important, is that it is really in keeping with the humanitarianism of our country. Perhaps I am too optimistic about its immediate enactment, but I am convinced that if someone undertook to acquaint those whose approval is a prerequisite to its adoption, the bill would become law without too much delay. In any event, a start must be made, and there is great satisfaction in the knowledge that you are making the start.

After I left your office, I conferred with Congressman Crosser for a few moments. He had left his office and I managed to see him in the subway of the building just before he rode away. Congressman Crosser recalled his earlier sponsorship of this bill and tentatively promised to reintroduce it. He asked me to call him yesterday to get his final answer. When I spoke to him yesterday by phone, he told me that he would definitely introduce the bill, and wanted to know whether you had introduced it. I take it that he was waiting for you to take the lead.

340923

Will you kindly remember me to your secretary. She was indeed very gracious in making the appointment for me and in making me feel at home in your office while I was waiting to see you.

With best wishes, I am

Sincerely yours,

ASW:st

Abraham S. Hyman
Administrative Director

June 9, 1953

Hon. Robert Crosser
House of Representatives
Washington, D. C.

Dear Mr. Crosser:

I was delighted to hear that you had consented to sponsor the hairless property bill. I know that you do so out of the deep conviction that there is a moral principle involved in this piece of legislation which you feel merits your endorsement and active support.

My own feelings are shared by the leadership of the American Jewish Congress as well as of the World Jewish Congress, both of whom have asked me to convey to you their appreciation for what you have undertaken to do.

Aside from the business aspect of our conference, I welcomed the opportunity which this conference gave me to see you again. There is certainly good reason why the people of your district have had you represent them for the major part of your life. I especially enjoyed seeing you on the eve of another birthday. I hope that you may be granted many more years of life and the opportunity of useful service to the nation.

With best wishes, I am

Sincerely yours,

ASH:st

Abraham S. Hyman
Administrative Director

340924

June 9, 1953

Mr. Saul Eagan
Conference on Material Claims
against Germany
270 Madison Avenue
New York City

Dear Saul:

I am happy to inform you that after several conferences with Wolverton and Crosser, in which I had to break down initial resistance against the suggestion that they introduce the hairless property bill, I succeeded in getting promises from both of them to introduce the bill at once. My experience with these men gives me the impression, if not the confidence, to say that with concentrated effort on the part of someone assigned to the specific job of seeing the bill through, some good may come out of this at this session of Congress.

While in Washington, I naturally conferred with Sy Rubin who is trying to get the bill introduced on the Senate side. He had an appointment scheduled with Senator Kefauver, the results of which we should know sometime this week.

Let us hope for the best.

Sincerely,

ASH:st

Abraham S. Hyman

340925

Heirless Property

sd

ABRAHAM N. GELLER
~~XXXXXXXXXXXX~~
~~XXXXXXXXXXXX~~
47 East 88th Street
New York 28, N. Y.

June 8, 1953

Dear Mr. Hyman:

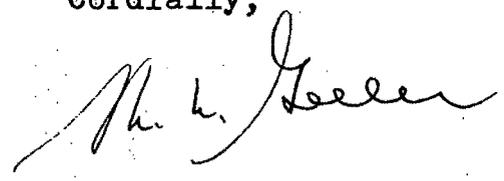
Thanks so much for sending me the June 1st edition of Congress Weekly.

I read your article "The Heirless Property Paradox". The logic is conclusive. I am confident that the present position of our Government will be corrected by the Congress of the United States.

Mrs. Geller and I were very pleased to meet you and Mrs. Hyman and look forward to meeting with you again.

With kindest personal regards, I am

Cordially,



Mr. Abraham S. Hyman
World Jewish Congress
15 East 84th Street
New York 28, N.Y.

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340926

June 1, 1953

Hon. Robert Crosser
House of Representatives
Washington, D. C.

Dear Mr. Crosser:

I thought you might be interested in an article I wrote for the most recent issue of the Congress Weekly dealing with a subject familiar to you. The article is entitled "The Heirless Property Paradox." In it I acknowledged your interest in and support of the bill which would have turned over to a successor organization the property of persecutees who had died leaving no heirs.

You will undoubtedly recall my several appearances before the House Interstate and Foreign Commerce Committee as the General Counsel of the U. S. War Claims Commission. The last time I appeared before your Committee was early in this session of the Congress in connection with the hearing of the War Claims Commission on its activities and especially on its Supplementary Report on War Claims Arising Out of World War II (House Document 67). I might add parenthetically that I am grateful that the Commission in its Letter transmitting the Report to the President acknowledged that I prepared the Supplementary Report for the Commission.

On May 1st I left the Commission to accept the appointment of Administrative Director of the World Jewish Congress. It is in this capacity that I am now serving. The American Jewish Congress, the organization which issues the Congress Weekly, is an affiliate of the World Jewish Congress. The American Jewish Congress, along with many other organizations concerned with the aftermath of the Hitler era, is vitally interested in the heirless property bill. This organization has asked me to speak to a few members of the Congress whom I have learned to know during my employment as General Counsel of the U. S. War Claims Commission, with the view of getting their support of this measure in the current session of the Congress. Having met you in my previous capacity and knowing of your active interest in the bill in question, I want to take the liberty of speaking to you about this measure and discussing with you the steps

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which might be taken to have a bill such as you introduced in the 80th Congress enacted into law.

I shall call your office Wednesday, June 3rd and ask for an appointment for either Thursday or Friday of this week. I trust that your schedule is such that you will be able to give me some of your time on either of these two days.

With highest esteem and with warmest regards, I am

Sincerely yours,

ASH:st
enc.

Abraham S. Hyman
Administrative Director

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Calendar No. 565

82^D CONGRESS
1ST SESSION

S. 1748

[Report No. 600]

IN THE SENATE OF THE UNITED STATES

JUNE 25 (legislative day, JUNE 21), 1951

Mr. O'CONNOR (for himself and Mr. TAFT) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JULY 30 (legislative day, JULY 24), 1951

Reported by Mr. O'CONNOR, without amendment

A BILL

To amend section 32 of the Trading With the Enemy Act, as amended, with reference to the designation of organizations as successors in interest to deceased persons.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 32 of the Trading With the Enemy Act of
4 October 6, 1917 (40 Stat. 411), as amended, is hereby
5 further amended by adding at the end thereof the following
6 subsection:

7 " (h) The President may designate one or more organi-
8 zations as successors in interest to deceased persons who, if
9 alive, would be eligible to receive returns under the provisos
10 of subdivision (C) or (D) of subsection (a) (2) thereof.

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1 An organization so designated shall be deemed a successor
2 in interest by operation of law for the purposes of subsection
3 (a) (1) hereof. Return may be made, to an organization
4 so designated, (a) before the expiration of two years from
5 the vesting of the property or interest in question, if the
6 President or such officer or agency as he may designate
7 determines from all relevant facts of which he is then advised
8 that there is no basis for reasonable doubt that the former
9 owner is dead and is survived by no person eligible under
10 section 32 to claim as successor in interest by inheritance,
11 devise, or bequest; and (b) after the expiration of such time,
12 if no claim for the return of the property or interest is pend-
13 ing. Total returns pursuant to this subsection shall not
14 exceed \$3,000,000.

15 "No return may be made to an organization so desig-
16 nated unless it files notice of claim on or before July 1,
17 1953, and unless it gives firm and responsible assurance ap-
18 proved by the President that (i) it will sell and dispose of
19 and use the property or interest returned to it or the pro-
20 ceeds of any such property or interest for use directly in the
21 rehabilitation and settlement of persons who suffered sub-
22 stantial deprivation of liberty or failed to enjoy the full rights
23 of citizenship within the meaning of subdivisions (C) and
24 (D) of subsection (a) (2) hereof, by reason of their mem-
25 bership in the particular political, racial, or religious group

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1 of which the former owner was a member and by reason of
2 membership in which such former owner so suffered such
3 deprivation of liberty or so failed to enjoy such rights; (ii)
4 it will transfer, at any time within two years from the time
5 that return is made, such property or interest or the equiva-
6 lent value thereof to any person whom the President or such
7 officer or agency shall determine to be eligible under section
8 32 to claim as owner or successor in interest to such owner,
9 by inheritance, devise, or bequest; and (iii) it will make to
10 the President, with a copy to be furnished to the Congress,
11 such reports (including a detailed annual report on the use of
12 the property or interest returned to it or the proceeds of any
13 such property or interest) and permit such examination of its
14 books as the President or such officer or agency may from
15 time to time require.

16 "The filing of notice of claim by an organization so desig-
17 nated shall not bar the payment of debt claims under section
18 34 of this Act.

19 "As used in this subsection, 'organization' means only
20 a nonprofit charitable corporation incorporated under the
21 laws of any State of the United States or of the District of
22 Columbia with the power to sue and be sued."

23 SEC. 2. The first sentence of section 33 of the Trading
24 With the Enemy Act of October 6, 1917 (40 Stat. 411),
25 as amended, is hereby amended by striking out the period at

1 the end of such sentence, and inserting in lieu thereof a semi-
 2 colon and the following: "except that return may be made
 3 to successor organizations designated pursuant to section
 4 32 (h) hereof if notice of claim is filed on or before July 1,
 5 1953."

Calendar No. 503

82ND CONGRESS
1ST SESSION

S. 1748

[Report No. 600]

A BILL

To amend section 32 of the Trading With the
 Enemy Act, as amended, with reference to
 the designation of organizations as succe-
 sors in interest to deceased persons.

By Mr. O'CONNOR and Mr. TAFT

JUNE 25 (legislative day, JUNE 21), 1951
 Read twice and referred to the Committee on the
 Judiciary

JUNE 30 (legislative day, JUNE 24), 1951
 Reported without amendment

Draft Statement for Mr. Minshaw in favor of S. 2420, 83rd Congress

I am proud to speak in favor of S. 2420. The bill would amend the Trading with the Enemy Act to provide that property vested as enemy assets and belonging to persons persecuted by the enemy for racial, religious or political reasons, who died heirless, shall be turned over to a successor organization to be designated by the President for use in the rehabilitation and settlement of the surviving needy victims of persecution residing in the U. S. Under a 1946 amendment to the Trading with the Enemy Act, property of persecutees vested under the Act became returnable to the original owners or heirs. S. 2420 disposes of the property of persecutees in cases where the original owners are dead and where there are no heirs. In most instances, the absence of eligible claimants under the 1946 Amendment is due to the genocide practiced by the enemy. The bill is not only consistent with the broad humanitarian impulses of our country, but it brings our domestic policy in line with our foreign policy on the issue of heirless property of the victims of persecution. In the post-war era, the U. S. has been the chief protagonist of the principle embodied in the bill. Due to the initiative of the U. S. Government, this principle was written into the restitution laws of Western Germany, the satellite treaties, the Paris Reparation Agreement, and into the Contractual Agreement with Germany. With some modifications, which can readily be ironed out in conference, this bill unanimously passed the Senate. Because it consecrates a principle which is just and humane, it merits the same support in the House.

Recommended statement by John J. McCloy in favor of S2420

Senator Everett Dirksen, Chairman
Subcommittee on Trading with the Enemy Act
Committee on the Judiciary
Washington, D. C.

Dear Senator Dirksen:

I should like to register with your Subcommittee my full support of S2420.

My interest in this bill stems from my experience with a law which embodies the principle upon which S2420 is predicated. I have reference to United States Military Government Law 59. This law, promulgated in 1947 in the United States Zone of Occupation in Germany, provides generally for the restitution of property taken under duress from persons persecuted by the Nazis by reasons of race, religion or political belief. The law further provides that the property of persecutees who died leaving no heirs be turned over to a successor organization representative of the group to which the deceased persecutees belonged, to be employed in the relief, rehabilitation and resettlement of the surviving victims of that persecution.

It is, I believe, noteworthy that U. S. Military Government Law 59 was subsequently used by both France and England ~~and~~ the pattern ~~of~~ similar laws which they enacted in their respective zones of occupation in Germany. The moral principles involved in this restitution law apparently escaped the Russian authorities, for they elected to ignore this problem in their zone of occupation.

I am persuaded that the proposal for the disposition of heirless property of persecutees situated in the United States, as envisioned by S2420, is pre-eminently just. I cannot permit myself to believe that our government would knowingly want to treat property belonging to members of families totally annihilated by the enemy as "enemy property," would deliberately merge the proceeds of this property with its general revenues, and would consciously deny this property to an organization seeking to relieve the distress of the surviving victims of Nazi persecution.

As High Commissioner in the United States Zone of Occupation in Germany from1949 to, I acquired a first-hand knowledge of the operations of the Jewish Restitution Successor Organization, the agency designated as the recipient of the heirless property of persecutees situated in the United States Zone of Germany. This organization has established an enviable record for making the maximum use of such property as it received, for the benefit of the ultimate beneficiaries of Military Government Law 59. I am confident that the successor organization which the President will designate to receive the property under S2420 will be equally dedicated ~~to~~ carrying out both the letter and spirit of this bill.

I would be grateful to you if you would share my letter with the members of your Subcommittee, and if you would incorporate it as part of the record of the hearing on S2420, scheduled for April 14, 1954.

Sincerely yours,

JOHN J. McCLOY

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In an adjoining column, there is a Letter inviting attention to a bill passed ^{unanimously} by the Senate a few days ago. There is a legal maxim that one may not profit by his own wrongdoing. In a further extension of this maxim, the Senate bill stands for the simple proposition that the United States does not wish to profit by the wrongdoing of another; in this instance, by the genocide practiced by the enemy. The disposition of the heirless property, as envisioned by the measure, is both sound and humane. It is the least we can do to honor the wishes of those who perished at the hands of the Nazi regime. To use the Letter writer's phrase, so "irresistible" is the appeal of the measure, that it is morally certain that not a voice will be raised in opposition to it when it is ^{to} ~~presented~~ ^{presented} to the House. We can only urge the House Interstate and Foreign Commerce Committee to make it possible for the House to act on the measure without delay.

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Points to be stressed in statement by Prof. Gray

1) When the August 1946 amendment was passed, the United States had already decided that it would not assert ownership with respect to property owned by persecutees. Had the original owners or heirs been alive, they would have acquired the property under the 1946 amendment. S.2420 merely gives full effect to the original intention of the Congress in making the solid distinction between the property of persons who were truly enemy nationals and the property of persons who though technically enemy nations, were really enemies of the enemy.

2) The property represents by and large the small savings of German Jews who, having faith in the American economy, wanted to have their savings in the United States. Had this property remained in Western Germany, it would have gone to a successor organization established under U. S. Military Government Law 59, or under the restitution laws in effect in the British and French zones of occupation. The successor organizations would have succeeded to this property pursuant to policy developed largely at the initiative of the U. S. Government. The surviving victims of Nazi persecution would, therefore, have had the benefit of this property. These same victims should not be denied the use of this property simply because the property in question happens to be situated in the U. S.

3) In turning the property over to a successor organization, the United States is giving effect to the wishes of those who died heirless. The funds in question belong to people who were mercilessly slaughtered by the enemy. Not a shred has remained of the families of these former owners. The proceeds of such property simply do not belong in the Treasury of the United States. The unexpressed wishes of the owners must be respected, and the only decent thing that can be done with the property is to use it in the relief, rehabilitation and resettlement of the handful of people who were fortunate enough to survive the fate of those who owned the property.

Statement by Senator Thomas C. Hennings in support of S.2420

The problem presented by S. 2420 is not a new one. Bills similar to this measure, namely S. 2764 and S.603, passed the Senate on the Consent Calendars in the 80th and 81st Congresses respectively. For one reason or another, companion bills were not put to a vote in the House.

Briefly, the bill would amend the Trading with the Enemy Act by providing that the heirless property of persons persecuted for racial or political reasons would be turned over to a successor organization to be designated by the President. The bill enjoins the successor organization to employ the proceeds of the property to the relief, rehabilitation and resettlement of the surviving victims of persecution belonging to the group of which the former owner was a member.

To bring the problem into sharper focus, I should remind the members of this Subcommittee that notwithstanding the rigid policy pursued by our Government to vest the assets of German nationals and of the German Government, situated in the United States, and to make the proceeds available for the payment of specific categories of war claims (prisoners of war, civilian internees, religious organizations in the Philippines, etc.), in August, 1946, Congress amended

ENCLOSURE

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the Trading with the Enemy Act to provide for the return of assets belonging to persons persecuted for racial, religious or political reasons, or their heirs. Presumably because at that juncture no policy was developed with respect to the property of persecutees who died heirless, this problem was not dealt with in the 1946 amendment of the Trading with the Enemy Act.

As it has been repeatedly pointed out to the Committees of both Houses of Congress which have had bills identical to S.2420 under consideration, our Government at the Paris Reparation Conference, in dealing with the identical problem in the U. S. Zone of Occupation in Germany, and in connection with the formulation of the satellite treaties, provided the principal initiative in the development of the principle that the heirless property of persecutees shall not escheat to the State in which the property is situated, but rather should be dedicated to the relief, rehabilitation and resettlement of the surviving victims of Nazi persecution. As far as I know, the only situation in which our Government was presented with the opportunity to embody this principle in law, *and has failed to do so.* has been with respect to the heirless property of victims of persecution, situated in the United States. The enactment of S.2420 would close this gap and would bring our domestic policy in line with our foreign policy on this issue.

I should like to make one additional observation.

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It relates to the recommendations contained in the Final Report of the Subcommittee to Examine and Review the Administration of the Trading with the Enemy Act. Among these recommendations is one urging the return of private property confiscated under the Trading with the Enemy Act, to individuals not convicted of war crimes. I personally am of the opinion that the issue presented by S. 2420 is separate and distinct from any of the recommendations contained in the Subcommittee's Report referred to above. I need only point out in this connection that should the Congress decide to return the vested property to former enemy nationals, the property involved in S. 2420 would not be affected by such policy decision since, as I have indicated, there would be no living claimant who would be entitled to this property. S. 2420, in essence, presents a problem separate and distinct from the overall question of returning enemy assets to their former owners, and therefore merits the separate consideration of this Subcommittee.

S. 2420 is fundamentally a just measure and is in keeping with the highest tradition of our country. A similar bill has not only passed two separate Sessions of the Senate, but has had the unqualified endorsement of every agency

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of the Government which in the past has been asked to comment on the measure, namely, the Department of State, Department of Justice, and the War Claims Commission. It has also had the enthusiastic support of distinguished citizens, such as General Lucius D. Clay and Mr. John J. McCloy, who, as you all know, have faithfully served our country in Germany. In my opinion, the enactment into law of the provisions of S. 2420 is long overdue. I strongly recommend that this Subcommittee report the bill favorably and get the bill on its way towards final enactment.

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Recommended statement by Lucius D. Clay in favor of S2420

Senator Everett Dirksen, Chairman
Subcommittee on Trading with the Enemy Act
Committee on the Judiciary
Washington, D. C.

Dear Senator Dirksen:

It has come to my attention that on April 14th your Subcommittee will conduct a hearing on S2420. This bill is essentially the same as S603, passed by the U. S. Senate in August 1949, and as HR1849 and HR2780, introduced in the House by Representatives during the 80th Session of the Congress.

On May 15, 1950 I appeared before the Subcommittee of the House Committee on Interstate and Foreign Commerce and testified in favor of S603, HR1849 and HR2780. In that connection, I presented a written statement, a copy of which I am enclosing.

I am still of the opinion that the principle of making heirless property of persecutees available for the relief and rehabilitation of the surviving victims of persecution, is sound public policy. The objective of S2420 is clearly in line with the official position taken by our Government with respect to heirless property whenever we have been called upon to deal with this problem.

Please consider my statement on S603, HR1849 and HR2780 as reflecting my views on S2420. I look forward to hearing that S2420 has been enacted into law.

Sincerely,

LUCIUS D. CLAY

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I. What the bill provides.

II. Legislative History of the
^{1.}
^{2.} ~~Legislation~~ ^{of \$3,000,000}
^{3.} measure.

III. Precedents for bill.

IV. Comments of ^{Congressional Committees and} Departments
and Agencies of the
Government.

V. ~~Moral~~ Moral
arguments in favor
of bill.

We respectfully request that you lend your full support to S2420, introduced in the First Session by Senators Hennings, Langer and McCarran.

Briefly stated, the Bill provides that the property of victims of ^{NAZI} persecution, seized and vested as enemy property under the Trading With The Enemy Act, shall, if the persecutee died heirless, be turned over to successor organizations to be designated by the President for use in the rehabilitation of the surviving victims of persecution.

Attached is a statement in support of the measure in question. The salient points contained in this statement are the following:

- 1) The Senate passed similar measures in the 80th and 81st Congresses
- 2) Identical measures have received the endorsement of every Department (Justice, State and Treasury) and Agency (War Claims Commission) to which they have been referred for comment;
- 3) The measure presents no novel concept. The principle involved in the Bill was successfully advanced by our Government in the Paris Reparation Agreement of 1946, in the Treaties of Peace with Hungary and Rumania in 1947, and in the Restitution Law promulgated in the U. S. Zone of Germany in 1948. The principle embodied in the measure is that heirless property of deceased persecutees should, instead of becoming the property of the state in which the property is situated, be used for the rehabilitation of the surviving victims of persecution;
- 4) Internally, the Congress has already made a distinction between the property of enemy nationals who were persecutees, and other enemy property. Thus under an amendment of the Trading With the Enemy Act, passed shortly after the end of the War, the Congress authorized the return to ^{living} the persecutees or their survivors, property belonging to them which the United States had vested.

For the United States to retain the heirless property as reparations is to make the United States the beneficiary in those instances in which the enemy succeeded in annihilating the entire family of the former owner of the property;

5. the enactment of the measure is not only thoroughly consistent with our domestic and foreign policy, but is demanded by our concept of justice. The least we can do for the unfortunate victims of persecution who perished for no other reason than that they were members of groups the enemy aimed to extinguish, is to permit the surviving members of the group to have access to this property as a source for their rehabilitation.

We feel very strongly that no one who has an understanding of the provisions, the aims and the spirit of the Bill, could conceivably raise his voice in opposition to the measure. We urge you to do everything within your power to see that the measure is enacted into law during the forthcoming Session of the Congress.

The enactment of this law is long overdue.

Sincerely,

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Re: Heirless Property Legislation

1. The principle is well-established in the United States that the property of persons who were nominally "enemy" nationals, but who were in fact persecuted by the Nazis, shall be returned to such persecutees. This principle has for years been a part of section 32 of our Trading with the Enemy Act. It has been a main source of U.S. policy in Germany. And it is reflected in the satellite treaties of peace, having been put there at U.S. insistence.

2. The U.S. has also adopted the principle that if such persecutees were killed, and if none of their heirs survived, their "heirless property" should be used for the relief and rehabilitation of surviving persecutees. Pursuant to this principle, the U.S. took the lead, in Germany (where the main problem existed), in enacting appropriate military government legislation, in pressing for enactment of similar legislation in the British and French Zones, and in securing recognition of the principle in the Contractual Agreement. This principle is also included in the agreement signed in August 1943 between the U.S., France and the United Kingdom and Switzerland on the subject of German property in Switzerland.

3. The same policy has led to bipartisan efforts to enact remedial legislation in the United States. Legislation was proposed in the 80th., 81st., and 82nd. Congresses, on a bipartisan basis. Senator Taft has been a sponsor of the proposed legislation, as have been Senators McGrath and O'Connor. On the House side, Congressman Wolverton and Crosser have been the sponsors of the legislation.

4. The proposed legislation passed the Senate on the Consent Calendar in the 80th. and 81st. Congresses, and was favorably reported by the House Interstate and Foreign Commerce Committee. A copy of the House Committee report is attached hereto. That Report (81st. Congress, 2nd. Session, No. 2333) discloses the full support of the Executive Branch of the Government. A copy of the statement of Senator O'Connor on the floor of the Senate is also attached hereto.

5. The legislation would permit the President to designate one or more organizations as successors in interest to persons who, with their entire families, were exterminated during the Nazi horror. These persons, if alive, or if they had heirs, would under existing law be able to claim their property in the United States. The proposed bill would allow their successors organizations to claim in their stead, and to use the proceeds for the relief of the poor, the uprooted, the sick and the needy in the same class of persecutees.

To ensure that the amounts involved here are not excessive, a top limit of \$3,000,000 has been inserted in the legislation.

It should be emphasized that no property will be returned unless it can be demonstrated that it was the property of a religious, racial or political persecutee, who has died without heirs. The use of the proceeds, for humanitarian purposes, would be subject to strict supervision and reporting.

6. A new bill should be exactly the same as S. 1748, except that the dates for the filing of claims, which have been outmoded by the passage of time, must be changed.

✓ **PROPERTY OF GERMAN NATIONALS
HELD BY THE ALIEN PROPERTY
CUSTODIAN — RESOLUTION OF
AMERICAN LEGION** *See also
Property*

Mr. LANGER. Mr. President, there has been pending for some time in the Senate a bill providing for the return to German nationals of property confiscated during the war.

I call attention to a resolution on the subject adopted by the American Legion at its annual convention, held in St. Louis, Mo., on September 2, 1953. It is one of 35 resolutions adopted by the American Legion at its convention. The resolution reads:

RESOLUTION ADOPTED AT THE 35TH ANNUAL CONVENTION OF THE AMERICAN LEGION, ST. LOUIS, MO., SEPTEMBER 2, 1953.

We urge that Congress by proper legislation return to German nationals, as has already been returned to Italian nationals, their properties seized and now in the hands of the custodian of alien property.

I ask unanimous consent that the resolution be appropriately referred.

There being no objection, the resolution was referred to the Committee on the Judiciary.

Statement by Senator Thomas C. Hennings in support of S.2420

The problem presented by S. 2420 is not a new one. Bills similar to this measure, namely S. 2764 and S.603, passed the Senate on the Consent Calendars in the 80th and 81st Congresses respectively. For one reason or another, companion bills were not put to a vote in the House.

Briefly, the bill would amend the Trading with the Enemy Act by providing that the hairless property of persons persecuted for racial or political reasons would be turned over to a successor organization to be designated by the President. The bill enjoins the successor organization to employ the proceeds of the property to the relief, rehabilitation and resettlement of the surviving victims of persecution belonging to the group of which the former owner was a member.

To bring the problem into sharper focus, I should remind the members of this Subcommittee that notwithstanding the rigid policy pursued by our Government to vest the assets of German nationals and of the German Government, situated in the United States, and to make the proceeds available for the payment of specific categories of war claims (prisoners of war, civilian internees, religious organizations in the Philippines, etc.), in August, 1946, Congress amended

the Trading with the Enemy Act to provide for the return of assets belonging to persons persecuted for racial, religious or political reasons, or their heirs.

Presumably because at that juncture no policy was developed with respect to the property of persecutees who died heirless, this problem was not dealt with in the 1946 amendment of the Trading with the Enemy Act.

As it has been repeatedly pointed out to the Committees of both Houses of Congress which have had bills identical to S.2420 under consideration, our Government at the Paris Reparation Conference, in dealing with the identical problem in the U. S. Zone of Occupation in Germany, and in connection with the formulation of the satellite treaties, provided the principal initiative in the development of the principle that the heirless property of persecutees shall not escheat to the State in which the property is situated, but rather should be dedicated to the relief, rehabilitation and resettlement of the surviving victims of Nazi persecution. As far as I know, the only situation in which our Government was presented with the opportunity to embody this principle in law, *and has failed to do so* has been with respect to the heirless property of victims of persecution, situated in the United States. The enactment of S.2420 would close this gap and would bring our domestic policy in line with our foreign policy on this issue.

I should like to make one additional observation.

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It relates to the recommendations contained in the Final Report of the Subcommittee to Examine and Review the Administration of the Trading with the Enemy Act. Among these recommendations is one urging the return of private property confiscated under the Trading with the Enemy Act, to individuals not convicted of war crimes. I personally am of the opinion that the issue presented by S. 2420 is separate and distinct from any of the recommendations contained in the Subcommittee's Report referred to above. I need only point out in this connection that should the Congress decide to return the vested property to former enemy nationals, the property involved in S. 2420 would not be affected by such policy decision since, as I have indicated, there would be no living claimant who would be entitled to this property. S. 2420, in essence, presents a problem separate and distinct from the overall question of returning enemy assets to their former owners, and therefore merits the separate consideration of this Subcommittee.

S. 2420 is fundamentally a just measure and is in keeping with the highest tradition of our country. A similar bill has not only passed two separate Sessions of the Senate, but has had the unqualified endorsement of every agency

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Draft Statement for Mr. Minshaw in favor of S. 2420, 83rd Congress

I am proud to speak in favor of S. 2420. The bill would amend the Trading with the Enemy Act to provide that property vested as enemy assets and belonging to persons persecuted by the enemy for racial, religious or political reasons, who died heirless, shall be turned over to a successor organization to be designated by the President for use in the rehabilitation and settlement of the surviving needy victims of persecution residing in the U. S. Under a 1946 amendment to the Trading with the Enemy Act, property of persecutees vested under the Act became returnable to the original owners or heirs. S. 2420 disposes of the property of persecutees in cases where the original owners are dead and where there are no heirs. In most instances, the absence of eligible claimants under the 1946 Amendment is due to the genocide practiced by the enemy. The bill is not only consistent with the broad humanitarian impulses of our country, but it brings our domestic policy in line with our foreign policy on the issue of heirless property of the victims of persecution. In the post-war era, the U. S. has been the chief protagonist of the principle embodied in the bill. Due to the initiative of the U. S. Government, this principle was written into the restitution laws of Western Germany, the satellite treaties, the Paris Reparation Agreement, and into the Contractual Agreement with Germany. With some modifications, which can readily be ironed out in conference, this bill unanimously passed the Senate. Because it consecrates a principle which is just and humane, it merits the same support in the House.

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H. R. _____

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES

A B I L L

To amend section 32 of the Trading With the Enemy Act, as amended, with reference to the designation of organizations as successors in interest to deceased persons.

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That section 32 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, is hereby further amended by adding at the end thereof the following subsection:

"(h) The President may designate one or more organizations as successors in interest to deceased persons who, if alive, would be eligible to receive returns under the provisos of subdivision (C) or (D) of subsection (a) (2) thereof. An organization so designated shall be deemed a successor in interest by operation of law for the purpose of subsection (a) (1) hereof. Return may be made, to an organization so designated, (a) before the expiration of two years from the vesting of the property or interest in question, if the President or such officer or agency as he may designate determines from all relevant facts of which he is then advised that there is no basis for reasonable doubt that the

former owner is dead and is survived by no person eligible under section 32 to claim as successor in interest by inheritance, devise, or bequest; and (b) after the expiration of such time, if no claim for the return of the property or interest is pending. Total returns pursuant to this subsection shall not exceed \$3,000,000.

"No return may be made to an organization so designated unless it files notice of claim on or before July 1, 1953, before the expiration of one year from the effective date of this Act and unless it gives firm and responsible assurance approved by the President that (i) it will sell and dispose of and use the property or interest returned to it or the proceeds of any such property or interest for use directly in the rehabilitation and settlement of persons who suffered substantial deprivation of liberty or failed to enjoy the full rights of citizenship within the meaning of subdivisions (C) and (D) of subsection (a) (2) hereof, by reason of their membership in the particular political, racial, or religious group of which the former owner was a member and by reason of membership in which such former owner so suffered such deprivation of liberty or so failed to enjoy such rights; (ii) it will transfer, at any time within two years from the time that return is made, such property or interest or the equivalent value thereof to any person whom the President or such officer or agency shall determine to be eligible under section 32 to claim as owner or successor in interest to such owner, by inheritance, devise, or bequest; and (iii) it will make to the President, with a copy to be furnished to the Congress, such reports (including a detailed

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annual report on the use of the property or interest returned to it or the proceeds of any such property or interest) and permit such examination of its books as the President or such officer or agency may from time to time require.

"The filing of notice of claim by an organization so designated shall not bar the payment of debt claims under section 34 of this Act.

"As used in this subsection, 'organization' means only a nonprofit charitable corporation incorporated under the laws of any State of the United States or of the District of Columbia with the power to sue and be sued."

SEC. 2. The first sentence of section 33 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, is hereby amended by striking out the period at the end of such sentence, and inserting in lieu thereof a semicolon and the following: "except that return may be made to successor organizations designated pursuant to section 32 (h) hereof if notice of claim is filed on or before July 1, 1953." before the expiration of one year from the effective date of this Act."

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Heirless property

SALVAGING JEWISH ASSETS

WA

Austria

At the end of the war there were only about 8,000 Jews in Austria out of the 190,000 who formerly lived there.

The main problems of Jewish concern in Austria were restitution and compensation to individual victims of Nazi persecution and of the heirless Jewish property of such victims. These problems related preponderantly to the Austrian and former Austrian Jews now residing abroad, the number of whom is estimated at 120,000, now residing principally in the United States, the United Kingdom and Israel; 60,000 Austrian Jews were deported and murdered by the Nazi régime.

The Austrian Government has maintained that it is not responsible for any persecutory measures against the Jews because Austria did not exist as a State when these measures were taken and did not profit from them.

The World Jewish Congress, in association with other Jewish organizations, has maintained that any Government unable to protect a section of its loyal citizens against persecution by an occupying power has at least the obligation to compensate, after the end of the occupation, the victims who had suffered more than the general population. The Congress also maintained that, even if the Austrian Government or the Austrian State were not responsible for the persecutory measures against this group, a considerable part of the Austrian population had participated in the persecution and spoliation of the Jews during the German occupation, and had become enriched at the expense of their Jewish fellow-citizens.

Repeated Jewish efforts for negotiations with the Austrian Government to obtain satisfaction of the claims of the Austrian

Jewish victims of Nazism encountered difficulties and procrastination on the part of the Austrian Government. These efforts were intensified on the successful conclusion of the Jewish negotiations with the Federal German Government at The Hague, and the signing of agreements at Luxembourg. In pursuance of these efforts, a Conference of Claims on Austria was formed on lines analogous to the Conference on Jewish Material Claims against Germany, and with the inclusion in it of representatives of Austrian Jewry. Finally, in May, 1953, the Austrian Government honoured its promise given many months previously to invite representative Jewish organizations to discuss and negotiate with it on the Jewish claims. Negotiations have taken place in Vienna between a delegation and negotiating Committee of the Conference and representatives of the Austrian Government. In the Jewish delegation and negotiating Committee, the World Jewish Congress is represented by members of the Executive and its principal legal advisers. The negotiations are still in progress, but it is gratifying to report that the Austrian Government has now undertaken to remove all discriminatory measures against Austrian Jews living abroad or against former Austrian Jews who have now acquired another nationality.

Greece

A major post-war problem in Greece was the ultimate destination of the Jewish property left heirless through the annihilation of 60,000 out of the 72,000 Jews who lived in Greece before the Nazis occupied that country.

The principle of non-forfeiture to the State was readily accepted by the Greek Government, which, in fact, was one of the first post-war governments to agree to this change in the usual

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legal procedure in the case of possessions left without heirs. The setting-up of a special Jewish organization proved, however, more difficult, and required many representations by the Congress to the Greek Government. Eventually, in 1949, these efforts proved successful through the enactment of Law No. 849, which set up a special Jewish organization (OPAIE), under government auspices, to administer the heirless Jewish property in Greece.

OPAIE continued to act as administrator of these properties and still does so, but the necessity of realizing and distributing the heirless Jewish assets in Greece soon constituted a problem of practical importance.

The sharp differences of opinion on these matters reached a critical stage in June, 1952, when the Central Board of Jewish Communities in Greece invited the World Jewish Congress, to which the Board is affiliated, to mediate on the controversy and to assist Greek Jewry in extricating the problem of the ultimate destination of the heirless property from the impasse into which it had fallen. In response to this invitation, representatives of the Executive of the World Jewish Congress visited Greece in August 1952, and, after protracted consultations with the representatives of the Jewish community and the representative of the Government of Israel, proposed the formation of an international Jewish commission vested with authority to decide the distribution of the heirless assets as and when they were realized, and to assist in procuring the necessary legislation to enable this to be done. It was proposed that the commission should consist of representatives of the Jewish Agency, the World Jewish Congress, American Joint Distribution Committee, the Central Board of Jewish Communities in Greece, and OPAIE.

The solution proposed by the Congress was accepted by all parties and secured the approval of the Government of Israel.

with whom the whole problem was discussed in Israel by the representatives of the Congress.

Switzerland

The World Jewish Congress, in conjunction with other Jewish organizations, made continuous representations to prevail upon the Swiss Government to introduce legislative measures by which the amount of Jewish heirless and unclaimed deposits in Switzerland could be ascertained, and to enable such deposits to be made available for the purpose of Jewish rehabilitation.

In September, 1952, the Swiss Federal Government announced its intention of introducing legislation obliging banks to register deposits of foreigners made before the war. If this measure is carried into effect, it may be of assistance in the efforts to recover, for purposes of Jewish rehabilitation, Jewish heirless or unclaimed deposits in the banks of Switzerland.

United Kingdom

In accordance with the generally accepted rules of war, all the Allied Governments confiscated or "blocked" the assets of nationals of an enemy country for eventual application towards meeting enemy debts.

The British Government eventually accepted this contention and released a considerable part of the blocked assets of Jews, although technically, they were "enemies".

United States

A problem of the heirless property of victims of persecution exists also in the United States of America.

Bills were introduced in the 80th, 81st and 82nd United States Congresses to recognize the paramount right of successor organizations

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Belgium

Some assets belonging to Jews resident in Belgium before the Nazi occupation were left heirless and unclaimed through the disappearance by Nazi deportation and murder of a large number of the Jewish population in Belgium. The World Jewish Congress sought on a number of occasions to induce the Belgian Government to transfer or to apply these possessions for the purpose of Jewish reconstruction, rehabilitation and resettlement.

The Belgian Government has not yet responded positively to these representations.

in this kind of property. Although bills were supported by the Departments of State, Treasury and Justice, and by the United States War Claims Commission, the Bills were not put to a vote. At the 82nd United States Congress the Bill was indefinitely postponed when it failed to secure the required unanimous vote.

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340960
April 14, 1954

STATEMENT OF ABRAHAM S. HYMAN, MEMBER OF THE AMERICAN JEWISH CONGRESS, AT THE HEARING BEFORE THE SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY, ON S.2420

My name is Abraham S. Hyman. I am a member of the American Jewish Congress and have been asked to appear on its behalf in support of S.2420, because of my familiarity with the problem dealt with in that bill.

I first encountered that problem in 1946. Then in Germany with the armed forces of the United States, I had an assignment which acquainted me with the progressive stages leading up to the promulgation of a restitution law for the U. S. Zone of Germany.

While the war was in progress, the United States had joined sixteen other nations in asserting the right to declare invalid all transfers of property in enemy-controlled areas. In line with this declaration and with a Joint Chiefs of Staff directive, General Lucius D. Clay, promptly upon his assumption of duties as U. S. Military Governor, devoted himself to the task of securing a restitution law for the U. S. Zone of Germany. His first effort was with the German Laender comprising the U. S. Zone. He tried to induce them to enact a law which would restore to persons persecuted for racial, religious or political reasons the property in the Zone of which they had either been wrongfully deprived or which they had transferred under duress. He further proposed that property belonging to persecutees who had died heirless be turned over to successor organizations representative of the groups to which the former owners belonged, for the relief, rehabilitation and resettlement of the surviving members of the respective groups. When, after a lapse of time, General Clay became convinced that the German authorities would not enact a law embodying the minimal provisions which he felt such a law should contain, he decided to promulgate such a law in his capacity as Military Governor. However, before doing so, he approached his counterparts in the other occupation zones with the view of getting concurrence on a quadri-partite restitution law applicable to the whole of Germany. Had Clay been prepared to yield on the issue of heirless property - had he, for example,

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been willing to accept the Russian formula, that such property shall escheat to Germany - in which case Germany would have profited by its own genocide - or the French and British formula of limiting the expenditure of the proceeds on behalf of the survivors living in Germany - in which case the provision would have been an empty gesture - he could have achieved either a bizonal or tri-zonal law. However, General Clay quite properly felt that he could not reconcile either position with that asserted by the United States representatives at the 1945 Paris Reparation Conference. There we had successfully maintained that heirless property in neutral countries belonging to enemy nationals who had been the object of persecutory measures, are distinguishable from other enemy assets in those countries, and that while the latter may enter the general reparations pool, the former must be used exclusively in the rehabilitation of the non-repatriable victims of Nazism. In any event, when he found that the occupying powers refused to accept his formula on the use of heirless assets of persecutees, he reluctantly sacrificed the advantages of a multi-zonal law and promulgated Military Government Law 59. This law treats heirless property of persecutees, situated in the U. S. Zone of Germany the same way as S.2420 proposes to deal with similar property situated in the United States.

It is not necessary for me to extol the virtues of Military Government Law 59. It is my earnest belief that there is no law which the United States promulgated as an occupying power of which the American people can be more proud than that law. The best proof of its quality is that eventually both the British and the French authorities adopted replicas of it in their respective zones of occupation.

I next encountered the heirless property question while serving as the General Counsel of the United States War Claims Commission. I joined the staff of this Commission in November 1950 as General Counsel and served from that time until May 1953. The War Claims Commission, as you know, was established by the

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War Claims Act of 1948, to administer the claims of prisoners of war, of civilian internees, and of certain religious organizations in the Philippines. The source for the payment of these claims is the War Claims Fund, established by the War Claims Act. The fund consists of the proceeds of the German and Japanese assets seized under the Trading with the Enemy Act. For obvious reasons the War Claims Commission jealously guarded the proceeds of the German and Japanese assets. To my knowledge, the Commission gave its approval to only one bill, the enactment of which would reduce the amount of the assets available for the payment of war claims. That single exception was in the case of a measure identical with S.2420, introduced in the 81st Session of the Congress. I hasten to add that the Commission's favorable report was not the result of any persuasion on my part, for the Commission submitted its report on that bill before I joined its staff. The Commission apparently recognized that it would not be in accord with our sense of justice to treat property belonging to families which had been completely annihilated by the enemy as "enemy property" and to use the proceeds of this property to pay the war claims of men who had fought to arrest the Nazi complex of which the former owners were the victims.

I should like to add that while with the War Claims Commission, I directed the Study on War Claims Arising Out of World War II. The Commission's Report, based on this Study, is House Document 67, 83rd Congress, First Session. In connection with this assignment, I made an analysis of the Treaties of Peace concluded with the Satellite Countries in 1947, and found that principally as a result of the United States initiative, the Hungarian and Rumanian Treaties incorporated provisions with respect to heirless property of persecutees, situated in these countries, virtually identical with the provisions of S.2420.

More currently, as a member of the American Jewish Congress, I encountered the heirless property question in the negotiations between representative Jewish organizations and the Austrian Government with respect to the heirless property

of Jews who lived in Austria and who were the victims of Nazism. These negotiations are now in progress. The American Jewish Congress gratefully acknowledges the fact that the Eisenhower administration, as the preceding administration, has, through the State Department, actively supported the effort to have Austria make available for the surviving victims of Nazism at least part of the value of the heirless property of the victims of Nazism situated in Austria.

It is apparent, then, that the United States has had an unbroken record on how to deal with the heirless property of the victims of Nazism. To its credit, the United States has been the first and the chief protagonist of the principle that such property must not be merged with the funds of the state where the property is situated but, rather, must be employed on behalf of the survivors of the groups to which the persecutee owners belonged. I am certain that it is not the wish of the Congress to make the only exception in the case of the heirless property which happens to be within the continental limits of the United States. To make that exception either by an affirmative act or by the failure to act would be an instance of ambivalence which would be very difficult to explain; even harder to justify.

Experience with Military Government Law 59 reveals that the problem of heirless property arises principally with respect to the property of Jewish victims of Nazism. This follows from the nature of Hitler's merciless war against the Jews who came under his control. While he destroyed individual members of the Christian faith, either because they protested openly against his brand of nihilism or because they held political beliefs which he regarded hostile to his regime, as a general rule he directed his attack against the specific individuals and left the families of these Christian victims intact. [NOTE: The survivors are eligible to the recovery of the vested property under a 1946 amendment of the Trading with the Enemy Act.] By contrast, he regarded all Jews, men, women and children, as unworthy of life, and therefore exterminated them en masse. The tragic consequence of this policy was that in countless cases entire Jewish

families were wiped out.

The American Jewish Congress shares the view of Jews everywhere that the United States established an enviable record in pursuing a post-war policy which has resulted in giving new hope to the surviving Jewish victims of Nazism. These people, uprooted from their homes, are trying to make a fresh start in their countries of adoption. Many are sick and disabled, while many more have the problem of adjusting themselves to their new environment. Independently of the strong moral argument in favor of S.2420, it is clear that while the sum which S.2420 will make available for the benefit of these people is an insignificant sum in the treasury of the United States, it will help substantially in bringing survivors of Hitlerism closer to their own goal, that of becoming self-sustaining human beings.

Moreover, the former owners of the property would, if they could speak up, ask that their property be so used.

We are confident that no member of Congress, familiar with the purpose of this measure, will raise his voice against it. We, therefore, urge this Subcommittee to report the bill favorably and thus give the Senate the opportunity to approve it at this Session of the Congress.

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WASHINGTON 6, D. C.

STERLING 3-5905

December 1, 1954

Dr. Nehemiah Robinson
World Jewish Congress
15 East 84th Street
New York 28, New York

Dear Nehemiah:

I enclose herewith the text of a decision in a matter which I have been handling, together with Randolph Paul, for the last few years.

I think you may be interested in the rationale of the Chief Hearing Examiner of the Office of Alien Property.

Sincerely,


Seymour J. Rubin

Enclosure

340966

UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE
OFFICE OF ALIEN PROPERTY

In the Matter of:

ELLEN ABEL-MUSGRAVE KRAUSE DORENDORF

Title Claim No. 39465

Docket No. 54 T 75

DECISION OF THE CHIEF HEARING EXAMINER

Seymour J. Rubin of Washington, D. C., with whom Randolph Paul of Washington, D. C. was on the brief, for the claimant.

Arthur J. Gang for the Chief of the Claims Section.

STATEMENT

This proceeding derives from a Notice of Claim Form APC-1A filed by the claimant on August 9, 1948. The claimant seeks the return of property valued by her at approximately \$30,000.

The claimed property was vested by Vesting Order No. 1281 (filed April 28, 1943, 8 F.R. 5602), which vested all right, title and interest of the claimant and another named person in and to the Estate of Alfred R. Pick, deceased; and Vesting Order No. 1282 (filed April 29, 1943, 8 F.R. 5603), which vested all right, title and interest of the claimant and certain other named persons in and to a trust for the benefit of Bertha Belle Pick under the Will of Alfred Pick, deceased. The claim was amended at the hearing on May 26, 1954 to constitute a claim for the return of certain additional property vested by Vesting Order No. 13520 (filed July 21, 1949, 14 F.R. 4607).

The record consists of a stipulation of facts dated April 29, 1954, a transcript of testimony taken at the hearing on May 26, 1954 and certain exhibits received in evidence at that time.

The claimant was a citizen and resident of Germany during the war. She had two Jewish grandparents, a fact unknown to and concealed from the Nazi government. Under Nazi law persons with two Jewish grandparents were

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considered to be first degree "mischlinge" and were classified as non-aryans within the purview of the so-called Nuremberg laws.

As stated by the claimant, the issue is whether a German citizen, who otherwise qualifies under section 32(a)(2)(D) of the Trading with the Enemy Act for a return of her vested property as 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," fails to qualify for a return because her membership in such a group was not known to the Nazi authorities.

As stated by the Chief of the Claims Section, the issue is whether the claimant must establish her eligibility by proving that she was deprived of rights of citizenship in fact as well as in law.

FINDINGS OF FACT

1. Claimant Ellen Abel-Musgrave Krause Dorendorf, was born in Clifton/Bristol, England in 1908, the daughter of Dr. Kurt Josua Emil Abel-Musgrave and Anna Maria Charlotte Musgrave, nee Pruefer.
2. She was brought to Germany by her parents when she was four years of age and has been a resident of Germany since that time. On December 17, 1931, the claimant was married to Renatus Krause, a German citizen, and thereby acquired German citizenship. At all times after December 7, 1941 claimant was a German citizen resident within Germany.
3. Three children were born to the claimant of her marriage to Renatus Krause:

P6(b)(6)
4. Claimant's maternal grandmother was a Jewess by the name of Suzette Pruefer, (nee Pick), who was born in November of 1843 at Landsberg-Warthe, Germany. Claimant's paternal grandfather was a Jew by the name of Carl Abel, who was born in Berlin in 1827. Claimant's maternal grandfather and her paternal grandmother were not Jewish. Claimant is not now and never has been an adherent of the Jewish faith.

5. Soon after Hitler assumed power as Chancellor of Germany in 1933 there were issued a series of discriminatory laws, decrees and regulations for the purpose of removing all "non-Aryans" from the professional, economic and cultural life of Germany. Under these so-called Nuremberg laws, which were enacted in September 1935, a non-Aryan was defined as a person "who is descended from non-Aryans especially Jewish parents and grandparents." As a person with two Jewish grandparents, claimant was a "person of mixed race of the first degree," within the meaning of the Nuremberg laws.

6. Laws, decrees and regulations of the German Government which were in effect after December 7, 1941 discriminated against "a person of mixed race of the first degree" and purported to deprive such a person of the full rights of German citizenship. For example, prior to marrying a German, such a person had to request specific permission from the state and party. Action on such permission depended upon how long the part-Jewish family was domiciled in Germany, whether its members had served in the German armed forces and whether the members of the family had actively supported the German folk community. Concealment of Jewish ancestry by means of forgery and falsified documents was an offense which subjected the perpetrators, and those who aided or abetted them, to grave punishment.

7. At the time claimant contracted her marriage with Renatus Krause in 1931, there was no legal requirement that she disclose her Jewish ancestry. However, before her marriage, she did inform Renatus Krause about her Jewish ancestry. Claimant's husband was for a period of time a technician in the Prussian Civil Service; and in connection therewith, on June 26, 1935, he procured a certificate from an appropriate official of the German Government reading as follows:

On the strength and after examination of the documents at hand it is herewith certified to Herr Renatus Krause, mining assessor, resident at 19 Wichmanstrasse, Berlin W 62, that there are no objections with regard to his own and his wife's Aryan descent in the sense of the Law for the Restitution of Civil Service.

Breslau, 26 June 1935
Preussisches Oberbergamt
Breslau
by proxy
sgd Pieler

8. Renatus Krause was a member of the Nazi Party from March 1, 1927 (and perhaps earlier) until the date of his death in 1941. His party number was 42,817. He knew of claimant's Jewish background at the time of his marriage in 1931 and asserted his disbelief in the racial aspects of the Nazi dogma. He became a Nazi out of nationalistic sentiment and was thereafter unable to leave the Nazi Party. He tried to disassociate himself from the Nazi Party, but felt that doing so might endanger the safety of his family. He befriended Jews at considerable risk to himself. Claimant was aware of the fact that her husband was a member of the Nazi Party at the time that she married him and she was equally aware of his subsequent career as a party member. Claimant's husband was a member of the SA (Storm Troops) and other affiliates of the Nazi Party. He was also the recipient of the Golden Party Badge and the Silver Honorary Badge of the Region of Baden. Claimant herself was not at any time a member of the Nazi Party or any of its affiliated organizations with the exception of the Reichsluftschutzbund (Civil Air Defense League).

9. Renatus Krause served in the German Army as a Second Lieutenant from 1939 until June of 1941 when he was killed on the Russian front. After his death, claimant received a pension from the German Government as a war widow, and was awarded a lump sum payment of RM4000 in lieu thereof upon her remarriage in 1942.

10. Claimant was married to Herbert Dorendorf, a German citizen, on May 22, 1942. At that time she stated that her religious preference was Evangelical and she volunteered no information about her Jewish ancestry. Both she and her present husband represented that they were not aware of any facts which would bring either of them under the disabilities of the Nuremberg laws.

11. Claimant's occupation during the war was that of a housewife. She engaged in no political activities. Her present husband, Herbert Dorendorf, was friendly with and helpful to persons in disfavor with the Nazis at considerable personal risk to himself and his family. At the time claimant married Dorendorf, in May, 1942, she knew and approved of his active anti-Nazi activities. During her marriage to Dorendorf, she also knew and

approved of his close association with various anti-Nazis, some of whom were executed in 1944.

12. At no time after December 7, 1941 was claimant detained, arrested, imprisoned or charged with any offense under German law. At no time after that date was claimant subjected to any police action under color of law.

13. Claimant's eldest son acquired the nickname of "Jew" at his school. Claimant attempted to inculcate anti-Nazi views in her son. She strongly hinted to him at his own Jewish background.

14. The claimant was graduated in 1929 from the Dora Menzler School in Leipzig where she took a course to prepare her for teaching gymnastics and physical education. She was then employed for a year as a teacher in the Netherlands and later for a year at Schule am Meer, Juist, Nordsee. She ceased teaching after her marriage in December 1931 but intended to resume teaching later on. In 1934 she received a letter from the Dora Menzler School asking her to join the national association of teachers in this field (Reichsverband deutscher Turn-, Sport- und Gymnastiklehrer). The letter included an extensive questionnaire which had to be submitted for membership in the association, and which contained the usual questions regarding ancestry asked by all organizations under the Nazi regime. Had she answered these questions truthfully, she would not have been accepted as a member and disastrous consequences might have resulted for her family and herself. She left the letter unanswered. Not being a member of the association, she was subsequently unable to engage in professional work and could not obtain a position as a teacher.

OPINION

This is the first claim before the Hearing Examiners for restitution of vested property to a woman who was classified under the Nuremberg laws and other racial laws and regulations of the Nazi Germany as a Jew, but who successfully concealed her "non-Aryan" blood from the Nazis. The claimant says she is eligible because she falls squarely within the express words of the return statute as a person who did not enjoy full rights of citizenship. The Chief of the Claims Section denies that she is eligible because, irrespective of her status in law, she was not in fact persecuted. The issue is one of importance in the administration of the return provisions of the Act.

The claimant was a German national residing and present in Germany during the war and she is therefore an enemy as defined in section 2 ineligible for a return as of right under section 9(a). Her eligibility as an enemy turns on the application to her of subdivision (D), and its relation to subdivision (C), of section 32(a)(2) which reads as follows:

The President, or such officer or agency as he may designate, may return any property or interest * * * whenever * * * such officer or agency shall determine - - -

(1) that the person who has filed a notice of claim for return * * * was the owner of such property or interest immediately prior to its vesting in or transfer to the Alien Property Custodian, * * * and

(2) that such owner, and legal representative or successor in interest, if any, are not - - -

(C) an individual voluntarily resident at any time since December 7, 1941, within the territory of such nation, other than a citizen of the United States or a diplomatic or consular officer of Italy or of any nation with which the United States has not at any time since December 7, 1941, been at war: Provided, That an individual who, while in the territory of a nation with which the United States has at any time since December 7, 1941, been at war, was deprived of life or substantially deprived of liberty pursuant to any law, decree, or regulation of such nation discriminating against political, racial, or religious groups, shall not be deemed to have voluntarily resided in such territory; or

(D) an individual who was at any time after December 7, 1941, a citizen or subject of Germany, Japan, Bulgaria, Hungary, or Rumania, and who on or after December 7, 1941, and prior to the date of the enactment of this section March 8, 1946 was present (other than in the service of the United States) in the territory of such nation or in any territory occupied by the military or naval forces thereof or engaged in any business in any such territory; Provided, That notwithstanding the provisions of this subdivision (D) return may be made 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 claimant's position is simply that the Nuremberg laws deprived all Jews, including first degree Mischlinge, of some rights of citizenship; that claimant was such a Mischling; and, therefore, at no time after December 7, 1941, did she enjoy full rights of citizenship.

The position of the Chief of the Claims Section is so much more complex than a simple syllogism that it can best be gathered from excerpts from his brief:

* * * proof of discriminatory legislation directed against a group is but one of the conditions that claimant must satisfy. She must also show substantial deprivations or disabilities distinguishing her from other German citizens.

It can scarcely be urged that a Mischling or a Jew who was able to entirely avoid the impact of laws and decrees discriminating against those groups sustained a substantial deprivation.

* * * in the case of a Mischling who voluntarily pursued the process of assimilation into the German community of non-Jews and thereby avoided persecution, she had made her choice to be treated as a German and should be denied recovery unless her true status under the Nuremberg laws was discovered and she suffered substantial deprivations.

Claimant was exposed to great personal risk by the concealment that she practised, but there is no substantial evidence to show that she practised the concealment in order to escape persecution. What the evidence does indicate is that claimant's assimilation into the non-Jewish German community was so successful that, long prior to the outbreak of war, she had accomplished an apostasy that was later forbidden by law. However, charitably one may view her situation, it must be apparent that she was in no substantial sense a victim of persecution.

Claimant's reply brief scores the Claims Section for ignoring the differences in the contents of subdivision (C) and (D) in interpreting the meaning of the latter (Reply Brief, p. 2) and for urging the adoption of a factual standard in the interpretation of subdivision (D) "without any statutory hint whatsoever as to what the standard may be."

* * * there is no difference of substance between the two provisos, and the differences in verbiage are accounted for by the fact that subdivision (D) deals with enemy citizens or subjects while subdivision (C) deals with non-enemy citizens.

* * * the requirements of the two provisos are virtually identical. If proof of membership in a persecuted group is sufficient, without more, to entitle an enemy claimant to a recovery under (D), it must be held sufficient to entitle the non-enemy claimant to a recovery under (C). If affirmative proof of a substantial deprivation of liberty is required under (C), there is equal reason for requiring affirmative proof that an enemy citizen did not enjoy full rights of citizenship under (D). The Dutch Jew who resided in Germany obtains his recovery under (C), the German Jew under (D). What amounts to substantial deprivation of liberty during the period of the Dutchman's residence in Germany would qualify as the failure on the part of a German Jew to enjoy full rights of German citizenship. There is no warrant from the language of the statute or from the standpoint of good sense for the contrast that claimant would develop between the two provisos.

The significant fact is that her divorcement from the Jewish group was accomplished long prior to December 7, 1941. She was Jewish only from the standpoint of the racial definitions of the Nuremberg laws, and she managed to conceal that fact from everyone except her husband and her brother. With regard to claimant's first marriage, the fact that claimant was married to a devoted Nazi for a period of ten years is a single fact tending to support the conclusion that claimant enjoyed such civil rights as were enjoyed by other inhabitants of the country and that claimant's mode of living was indistinguishable from that of her Aryan neighbors.

Her remarriage in 1942, openly and in full conformity with German law, lends further support to the same conclusion. It serves no purpose to repeat here the items of evidence that are marshalled in our initial brief in an effort to trace the pattern of claimant's life in Germany (pp. 9-16), but in those items of evidence lies the basis for our opposition to this claim. Claimant did not flee from persecution -- she was never exposed to persecution.

The Applicable Provision of Section 32(a)(2)

The reasons advanced by the Chief of the Claims Section for denying the claimant's eligibility can be marshalled in support of either of two distinct legal arguments:

1. The claimant must prove her eligibility under both subdivisions (C) and (D) of section 32(a)(2); or
2. The test of eligibility under the proviso of subdivision (D) is the same as the test of eligibility under the proviso of subdivision (C).

Neither in his opening statement nor in his briefs does the Chief of the Claims Section make the first argument; he repeats that the relevant subdivision is (D). But because, while appearing to contend that the claimant need establish her eligibility under subdivision (D) only, he is in effect arguing that she is excluded by standards contained in subdivision (C), I turn first to the first form of the argument.

In Matter of Hans Tiedemann, Docket No. 417, the Chief of the Claims Section took the position that a claimant who was a citizen of an enemy country (Germany) resident in another enemy country (Japan) during the war must qualify under subdivision (D) of section 32(a)(2) and not under subdivision (C) as urged by the claimant. The Hearing Examiner agreed with the claimant (January 6, 1953), but was reversed by the Director who held that subdivision (D) was applicable. (February 17, 1954.)

In Matter of Sztankay, Docket No. 552, January 29, 1953, the Chief Hearing Examiner held that a claimant who was an enemy national present in another enemy country during part of the war and in his own country during part of the war must qualify under both subdivisions (C) and (D) to establish his eligibility for a return.

The opinion states:

We cannot allow a claim under section 32 unless we 'determine' that the claimant is not (A) an enemy government, nor (B) an enemy corporation or association, nor (C) an individual voluntarily resident after December 7, 1941, within enemy territory, nor (D) an individual, a citizen of an enemy country who was present after December 7, 1941 and before March 8, 1946 in the territory of 'such nation.' Thus each claimant must establish that he is not any one of four different things. When the claimant is an individual, it follows, of course, that he is neither (A) nor (B). But he must prove affirmatively that he is neither (C) nor (D). If the claimant was not a national of one of the named enemy countries, but was present in one of them, it follows that he need qualify only under subdivision (C) no matter where he was. But if he was an enemy national, he could fall literally within the applicable provisions of either or both (C) and (D) depending on where he was during the war. (Last underscoring supplied) (p. 16).

In reversing the Chief Hearing Examiner's decision, on the ground that he had erroneously concluded that the claimant had at no time enjoyed full rights of Hungarian citizenship, the Director held that the claimant was barred by subdivision (D) ~~above~~ (February 26, 1954). The Director did not say or intimate in his opinion that if the claimant had not been barred by subdivision (D) he would have had to establish his eligibility under subdivision (C) as well.

By his reversal in the Tiedemann claim it appears that the Director thought that a German national in Japan during the war was not (C) "an individual voluntarily resident within the territory of" Germany or Japan, but was (D) "an individual, a citizen or subject of Japan * * * who * * * was present in the territory of such nation * * *." If this is the necessary implication of his decision, then, for a better reason, a German national in Germany during the war was not "an individual voluntarily resident within the territory" of "Germany" within the meaning of subdivision (C), but was an individual, "a citizen or subject of Germany * * * who * * * was * * * present * * * in the territory of such nation * * *" as provided in subdivision (D).

Hitherto it has never been considered necessary for an enemy claimant of German nationality who was in Germany during the war to do more than establish his eligibility under subdivision (D). As set forth in my opinion in the Sztankay claim, both the legislative history of subdivision (D) and its language taken literally indicate its application to a German citizen in Germany to the exclusion of subdivision (C).

I conclude therefore that subdivision (C) has no application to the present claimant and its standard of eligibility -- a deprivation of life or a substantial deprivation of liberty -- does not control her case.

The Standard of Failure to Enjoy Full Rights of Citizenship

What the Chief of the Claims Section appears to say is not that the claimant under the statute as it is written must establish eligibility under the provisos of both subdivisions (C) and (D), but that, while the claimant need prove her eligibility under subdivision (D) only, the test of eligibility under subdivision (D) is, in this respect, the same as the test of eligibility under subdivision (C). In other words, 'a deprivation of life or a substantial deprivation of liberty' referred to in (C) is all that will satisfy the requirement of a failure 'to enjoy full rights of citizenship' under (D).

This appears to be just another way of arguing that an enemy national claimant who was in his own country has the double burden of establishing his eligibility under both subdivisions (C) and (D), a position which we have already shown to be untenable.

It seems obvious that when the Congress prescribed in entirely different language two separate tests of eligibility for two different categories of claimants the Congress did not and could not have meant to prescribe the same test for each. The statute in this respect is clear and unambiguous, and there is no occasion for examining its legislative history for aid in construction. However, the Chief of the Claims Section points to nothing in the pertinent committee reports to support his exegesis. I conclude that it is without merit.

There is need however for recourse to the legislative history to determine a norm for ascertaining that modicum of rights of citizenship of which the loss will result in a failure to enjoy "full rights of citizenship." It should be kept in mind that there is no requirement that the claimant must have been deprived of all rights of citizenship. The statute requires merely that the claimant at no time after December 7, 1941, enjoyed full rights of citizenship. In Matter of von Oppenheim, Docket No. 591, October 16, 1951, we said:

In considering how the present claimants were affected by the Nazi discriminatory legislation and practice we must not lose sight of the language of section 32(a)(2)(D). A claimant becomes eligible under the proviso if he failed to enjoy 'full rights of citizenship.' The statute expresses no standard for weighing the quantum of rights which must have been taken from a claimant to render him eligible for relief. Literally, any modicum would be sufficient. But the legislative history of the Act shows that the Congress intended to require a showing that the deprivation be 'substantial.' In the Senate Report recommending its enactment, it was stated:

The bill as amended, has four objectives * * *. Fourth, to authorize the return of vested property to innocent victims of Axis aggression who may have been nationals or residents of enemy countries.

* * * * *

Section 2 of the bill would amend subdivisions (C) and (D) of section 32(a)(2) of the Trading with the Enemy Act as added by Public Law 322, approved, March 8, 1946.

Under section 32 as it now stands administrative returns of vested property may not in general be made to persons who were voluntarily resident in any enemy country, or to citizens of such country who were physically present in its territory or in territory occupied by it. The proposed amendment would remove these bars in the case of victims of Axis oppression who were deprived of life or of civil rights by discriminatory legislation against political, racial, or religious groups in the country where they resided or of which they were nationals.

Subdivisions (C) and (D) of section 32(a)(2) both employ the term 'pursuant to any law, decree or regulation.' This language, of course, includes discrimination under color of such laws, decrees, or regulations.

The House Committee gives the following explanation of certain terms in subdivision (D):

In administering this provision the committee anticipates that the phrase 'any law, decree, or regulation * * * discriminating against political, racial, or religious groups' will be construed to include, laws, decrees, or regulations substantially reducing the degree of civil rights which are normally enjoyed.'

As the Judiciary Committee of the House has pointed out, it is not intended that the administration of the law shall be clogged by the niceties and technicalities of foreign laws as to 'rights of citizenship.' The test is the substantial reduction of civil rights.

The test, therefore, of whether a loss of rights of citizenship is sufficient to satisfy the proviso of subdivision (D) is whether it was substantial. This standard was approved by the Director in the Sztankey claim.

Did the Claimant Suffer a Substantial Loss of Rights of Citizenship?

The laws and regulations of Nazi Germany relating to Jews and Mischlinge are set forth in detail in our findings of fact accompanying the decision in Matter of von Oppenheim, supra. Findings 21-62 inclusive are incorporated here by reference. Whether the present claimant suffered a substantial loss

of her civil rights must be determined from an examination of the impact of those laws upon first degree Mischlinge or half-Jews. Everything said with respect to Baron von Oppenheim, who is only a quarter Jew or second degree Mischling, applies with greater force to claimant, a half-Jew or first-degree Mischling. We said:

To summarize the discriminatory laws against quarter-Jews (Mischlinge II): they were enjoined not to intermarry; they were required to state their racial classification in the Register of Personal Status; they were barred from the following pursuits: civil service, notaries, railway employees, Reichsbank employees, state employees and workers, newspaper editors, physicians and dentists in the Social Insurance Plan, and 'cultural' pursuits. Upon certain conditions they were barred from practicing as private physicians, lawyers, veterinarians, court representatives, patent attorneys; they could not be hereditary peasants; they could not be officers in the military service, nor perform active military service; they could not be leaders in the labor service; they were unable to inherit from Jewish grandparents; they had only a limited access to schools, and they were designated in the Reich Citizenship Laws as a distinct racial group.

Several of the discriminatory laws had specific impact upon the present claimant.

As a result of the Law for the Restoration of the Professional Civil Service (RGBl. I 175; Oppenheim Finding 23), and the First and Third Regulations thereunder (RGBl. 195 and 245; Oppenheim Findings 24 and 29) the claimant who was educated as a teacher of physical culture (Finding 14) was deprived of the opportunity of obtaining a position in the schools. She was unable to fill out the forms of applications for membership in the association, which was a prerequisite to obtaining a teaching position, which had been sent her by the college of which she was a graduate for fear of the consequences of disclosing her Jewish blood, as required by the forms.

It is curious that there is more evidence in the record with regard to the claimant's first husband, who died before the beginning of the pertinent statutory period, than in regard to her second husband whose status is of much greater importance. The record discloses only that Hubert Dorendorf whom she married on May 22, 1942, was "a member of the executive committee of Markische-Brikett und Kohlenverkaufs, A.G. Berlin," (Claimant's Exhibit J-1). It does not show whether he was also a public official, or was otherwise in the public service, civil or military; but he would have been unable

to obtain public employment legally because of his wife's Jewish blood. Civil Service Law of January 17, 1947. (RGB1. I 41; Oppenheim Finding 53).

His inheritance rights were also curtailed as his statutory portion could have been withdrawn had his wife's Jewish blood become known. Law Concerning Limitation of Inheritance Rights Due to Conduct Impairing Community Interests (RGB1. I 1161; Oppenheim Finding 57). The claimant herself could not have inherited from her Jewish grandparents. (Oppenheim Finding 62).

But the most tangible impact of Hitler's laws upon the claimant appears to be the invalidation of her marriage to Dorendorf. Section 1 of the Law for the Protection of German Blood and German Honor (RGB1. I 1146; Oppenheim Finding 46) provided:

Marriages between Jews and nationals of German or kindred blood are forbidden. Marriages concluded in defiance of this law are void, * * *

Section 2 of the same law made illegal her relations with her husband, assuming the marriage to be void. It certainly cannot be successfully maintained that she married "openly and in full conformity with German law."

The claimant was probably prevented from legally driving the family automobile by a decree of December 1938 promulgated by Heinerich Himmler in retaliation against the Jews following the assassination in Paris of a Nazi diplomat by a Jew by the name of Gruenspan. (Oppenheim Finding 58)

Finally, the claimant, as a Jew, was deprived of all semblance of what the Nazis regarded as due process of law by the decree of July 1, 1943, (RGB1. I 372; Oppenheim Finding 62) providing that in all criminal matters, Jews should be dealt with by the police rather than by the courts, and that the property of Jews should be confiscated upon their death.

The impact of Nazi law upon Jews and those whom they classified as Jews cannot be accurately measured, however, by the published laws and regulations because Nazi Germany had become for them a government not of laws but of Gauleiter and Gestapo. As was stated in the von Oppenheim opinion:

Paradoxically, as actual persecution increased, laws and regulations became by their own terms more lenient towards Mischlinge. The 1933 laws included quarter-Jews in many of their discriminatory provisions. But by the 1935 Citizenship

Law, one of the Nuremberg laws, quarter-Jews were bracketed with Aryans as citizens of the Reich. However, Article 6 of the First Regulation under the law continued in effect all existing requirements as to 'pureness of blood,' and there- after much of the discriminatory action and persecution against Mischlinge resulted from arbitrary party or administrative action either under color of law or under no law at all. Police and party officers were given practically unlimited discretion in dealing with Jews, and this must have resulted, in practice, in their own arbitrary classifications of Mischlinge as Jews. In view of such measures as the Amnesty Law (Finding 51) which protected Nazi zealots from punishment for certain crimes committed 'in eagerness to fight for the National Socialists ideal,' the amendment of the Penal Code of June 28, 1935 (Finding 43) which made punishable 'acts deserving of penalty according to * * * sound popular feeling,' and the Decree of August 22, 1942 (Finding 60) conferring authority upon the Reich Minister of Justice to 'deviate from any existing law' it is plain that the true picture of Nazi persecution of minorities cannot be obtained from the pages of the Reichsgesetz- blatt where laws, decrees and regulations were published. (p. 39).

Whatever may have been the effect on the claimant of published laws and regulations, she was also subject to the fate reserved for all Mischlinge by the Nazis: quoting further from the von Oppenheim opinion:

The prosecution of the Major War Criminals at the Nuremberg Trials, at least insofar as it concerned the 'crimes committed against the Jews,' was based upon a conspiracy -- a continuing conspiracy which had its beginnings in the origin and aims of the Nazi party, gained momentum with the ascendancy to power of Hitler, and reached its maximum degeneracy in a terrorism of cruelties, obscene 'scientific' experiments and mass executions. As a part of this conspiracy the top Nazi conspirators in a series of secret conferences plotted the so-called 'Final Solution' of the Jewish question. According to an Article by Dr. Erich List, Commissioner at the Landgericht of Frankfurt am Main, the final plans for Mischlinge were that, with some exceptions, they should be treated as full Jews. These plans contemplated compulsory divorce upon petition of the public prosecutor in the case of mischlinge marriages where one spouse was an Aryan, and compulsory sterilization of Mischlinge of the first-degree (half-Jews) without exception, 'though the question of the mischlinge may be completely solved biologically only in the case of a sterilization of mischlinge of all degrees.' In the case of compulsory divorces the Gestapo was to determine whether one spouse was a Mischling; such decision by the Gestapo was to be binding upon the public prosecutor and the court. The minutes of the conferences on the 'Final Solution' were passed on to the Foreign Office on July 11, 1942, with the observation that so far as foreign policies were concerned it did not matter 'whether the mischlinge would be deported to the East or sterilized or permitted to remain in Germany.' (Footnotes omitted). (p. 27).

There is no express requirement in the proviso to subdivision (D) that a claimant's membership in a persecuted group be known to the persecutor. Nor does logic require a conclusion that there can be no substantial reduction of civil rights unless the victim is known to the persecutor. The Committees of the House and Senate of the Seventy-Ninth Congress which considered

H.R. 6890 and S. 2378 were interested primarily in excluding "persons who in fact identified themselves with the Axis cause" from the "genuine victims of enemy persecution" to whom they meant to extend broad relief. (H.R. 2398, p. 18) That the claimant before the war was married to a member of the Nazi party who died before December 7, 1941, does not of itself establish that she identified herself with the Axis cause. There is no evidence that her second husband whom she married in 1942 was a Nazi party member. On the contrary, it appears that he was an active anti-Nazi and participated in the resistance movement culminating in the attempt on Hitler's life.

It is abundantly clear that the claimant fell within the ambit of many of the Nazi discriminatory laws and regulations. There is so little difference in their effect on full Jews and first-degree Mischlinge that as far as the present claim is concerned it may be ignored. The reasons advanced by the Claims Section for denying this claim would apply equally to the claim of a full Jew who had successfully escaped the concentration camp and the gas chamber by concealing his Jewish ancestry.

Must the claimant be denied relief because her Jewish blood was successfully concealed from the Nazis? The Chief of the Claims Section argues that even though the claimant was clearly included within the scope of the Nuremberg laws

* * * there is not the slightest evidence that she identified herself with the Jewish community in Germany either voluntarily or under compulsion. * * * there is no reason to reward successful assimilation with an ameliorative remedy intended to benefit only 'genuine victims of enemy persecution.' * * * If claimant sustained any deprivation in fact, then, it arose from the inner conflicts and frustrations produced by her ambivalent status. We have no desire to minimize the emotional strain of enforced segregation nor have we any interest in disputing that claimant's pose left ineradicable scars upon her personality, and distorted her relationships with her husband and her children. * * * Such inner suffering * * * does not entitle claimant to recognition as a persecutee under the language of the proviso to Section 32(a)(2)(D).

In response, the claimant says:

* * * the Claims Section itself recognizes that such tests are no part of the statute. Thus, while it speaks generally of a standard of 'substantial deprivation' - language the Congress would have used if meant - it also abandons this position in favor of a more forthright, if astounding, interpretation.

It thus declares that (p. 9): 'There can be no substantial deprivation, therefore, unless both persecutee and persecutor were aware of the former's status as a member of the persecuted group.' (emphasis added) Thus, the requirement is not really 'substantial deprivation'; it is detection, arrest and imprisonment. And thus Anne Frank, of whom the Claims Section speaks feelingly, would not be an eligible claimant if she had not been detected. A more ghastly distortion than is contained in the quoted sentence is beyond the imagination of counsel here.

The argument presented by the Claims Section is thus that one who avoided arrest and persecution thereby removed himself from the 'enemies of our enemies' category of which the Congress spoke. This is to say that the undetected fugitive has allied himself with his pursuer. The argument has no basis in reason, and none in the statute.

We have previously stated that the standard^{for} of determining what are "full rights of citizenship" must be found in German or other enemy law, not in American law. Re Sutor, Docket 382, January 12, 1951. I do not take the Director's reference in the Sztankay claim to Justice Holmes' famous dictum about the failure of our Constitution to guarantee each citizen the right to be a policeman as casting any doubt upon that principle. However, reference to American law to assist in weighing facts in the scales of deprivation or loss of civil rights is appropriate. In Sweatt v. Painter, 339 U.S. 629 (1950) the Supreme Court relied upon "those qualities which are incapable of objective measurement" in holding that a Negro denied admission to a white law school was denied the equal protection of the laws. And in McLaurin v. Oklahoma, 339 U.S. 637 (1950) in requiring admission of a Negro to a white graduate school the Court again resorted to intangible considerations such as his ability to study and exchange views with other students. Psychological intangibles which affect the "hearts and minds" of Negro children were regarded by the Supreme Court in the recent segregation cases as sufficiently ponderable to result in a deprivation of equal protection guaranteed by the Fourteenth Amendment, Brown v. Board of Education of Topeka, 347 U.S. 483 (1954), and a deprivation of liberty without due process of law guaranteed by the Fifth Amendment, Bolling v. Sharpe, 347 U.S. 497 (1954). In the latter case the Chief Justice said for the Court:

Although the Court has not assumed to define 'liberty' with any great precision, that term is not confined to mere freedom from bodily restraint. Liberty under law extends to the full range of conduct which the individual is free to pursue, and it

cannot be restricted except for a proper governmental objective. Segregation in public education is not reasonably related to any proper governmental objective, and thus it imposes on Negro children of the District of Columbia a burden that constitutes an arbitrary deprivation of their liberty in violation of the Due Process Clause.

While we do not say that the American ideal of fairness inherent in our constitutional guarantees can be transplanted to such alien soil as that of Nazi Germany, their Nuremberg and other discriminatory laws are so much more shocking than our school segregation laws and their impact upon the "minds and hearts" of their victims so much more poignant that I should have no difficulty in finding that they substantially deprived Jews and Mischlinge of their liberty if deprivation of liberty were the statutory test. For a better reason, I conclude that they deprived them of their civil rights to such an extent that at no time after December 7, 1941, did they enjoy full rights of citizenship.

When the Chief of the Claims Section argues that the claimant should be denied relief because she chose to live like a German rather than like a Jew, he overlooks the fact that Hitler's anti-racial theories were based on blood not upon religion. Jews could not resign from their race, as could Jehova's Witnesses from their religion, or Social Democrats or Communists from their political faith. For this reason, the claimant's position does not "prove too much," by enabling recovery by "every person who can establish a nominal affiliation with a persecuted group." The claimant's affiliation with the Jewish race was in Nazi theory more than "nominal." It was impossible for her "to entirely avoid the impact" of discriminatory laws.

Nor is it significant that some "assimilated Jews" or Mischlinge like Field Marshal Eberhard Milch and General Alexander von Linsingen reached positions of great responsibility under the Nazis. It is well known that the attitude of certain powerful Nazis like Reichs Marshal Goering was: "A Jew is anyone that I say is a Jew; and if I say that a person is an Aryan he is an Aryan." It will be time enough to deal with such exceptional cases when we receive a claim by one.

DETERMINATION

1. The claimant has established her eligibility under Section 32(a)(2)(D) of the Act.

2. The vested property claimed was not at any time after December 1, 1939, held or used, by or with the assent of the person who was the owner thereof immediately prior to vesting in or transfer to the Alien Property Custodian, pursuant to any arrangement to conceal any property or interest within the United States of any person ineligible to receive a return under subsection (a)(2) of section 32 of the Act.

3. The Alien Property Custodian has no actual or potential liability under the Renegotiation Act or the Act of October 31, 1942 (56 Stat. 1013; 35 U.S.C.A. §§ 89-96), in respect of the property or interest or proceeds to be returned and the claimant has no actual or potential liability of any kind under the Renegotiation Act or the said Act of October 31, 1942.

4. The claim is allowed, subject to the Director's determination of national interest under section 32(a)(5).

Harry LeRoy Jones
Chief Hearing Examiner

November 23, 1954
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The new
Statement

Statement of
AMERICAN JEWISH CONGRESS

on

S. 2227 relating to the
partial return of enemy
assets and the award of
compensation for war
damages

submitted to

Subcommittee on Trading With the Enemy Act

of the

United States Senate

COMMITTEE ON THE JUDICIARY

by

Abraham S. Hyman

November 29, 1955

Stephen Wise Congress House
15 East 84th Street
New York 28, N. Y.

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My name is Abraham S. Hyman. I am the Executive Secretary of the World Jewish Congress and reside at 600 West End Avenue, New York City. From November 1950 to May 1953, I served as the General Counsel of the United States War Claims Commission, the agency which has been merged into the Foreign Claims Settlement Commission. In my capacity as General Counsel of the War Claims Commission, I directed the study of war losses suffered by Americans during World War II, which study is reflected in the Supplementary Report on War Claims submitted to the Congress on January 16, 1953. The Report is House Document No. 67, 83rd Congress, First Session.

I am appearing on behalf of the American Jewish Congress to testify on S. 2227. The American Jewish Congress is a nation-wide organization of American Jews formed in 1918 by such American Jewish leaders as Supreme Court Justice Brandeis, Judge Mack and the late Stephen S. Wise. Since its inception, it has consistently dedicated itself to the preservation and extension of the democratic way of life, and to the assurance of the fundamental freedoms of man by the elimination of all forms of political, social or economic discrimination because of race, religion or ancestry.

Title I

We should first like to make a brief observation on Title I of S. 2227, the Title providing for the return to former individual owners of assets vested under the Trading with the Enemy Act, up to a maximum sum of \$10,000. The bill provides (page 8, line 3) that three categories of persons shall be disqualified for such return. One of the categories consists of persons convicted of war crimes (page 8, line 4). The bill defines "convicted of war crimes" as

"the entry of judgment against any person who has been convicted personally and by name by such courts as may be designated by the Secretary, of

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murder or ill-treatment or deportation for slave labor of prisoners of war, political opponents, hostages, or civilian population in occupied territories, or of murder or ill-treatment of military or naval persons, or of plunder or wanton destruction without justified military necessity" (page 14, lines 4-12).

It is our view that this disqualification provision is too narrow in two respects.

In the first place, as S. 2227 now reads, it is subject to the interpretation that the maltreatment of fellow citizens on racial or religious grounds does not disqualify the claimant seeking the return of his assets. The bill does not take into consideration the well-known fact that thousands of persons in Germany were persecuted by their fellow citizens on racial and religious grounds as well as on political grounds. We submit that any ambiguity on this matter should be removed and that the bill should specify that persons convicted of having persecuted their fellow citizens on racial and religious grounds shall not be entitled to the return of their property.

In the second place, it is our view that the definition of "convicted of war crimes" should be broadened to include persons adjudged by competent tribunals, such as Denazification Courts in Germany to have been "major offenders." The group designated as "major offenders" by these tribunals comprises only such persons as high officials in the Schutzstaffeln (SS) or Sturmabteilungen (SA) and leading collaborators with the Nazi regime. While, for a number of reasons, they were not charged with war crimes (although such charges often would have been justified), it is true that all persons branded as "major offenders" were active and vigorous proponents of totalitarianism and sworn enemies of democracy. It may be added that there were many other categories of persons found guilty of Nazi or

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Fascist affiliations but we do not here propose that the larger number of persons in these groups should similarly be denied benefits under the bill. Our recommendation is designed to disqualify only persons whose degree of identification with the Nazi or Fascist regimes was so marked and intense as to warrant the finding that they were "major offenders."

Our Supreme Court has held (Cummings v. Deutsche Bank, 300 U. S. 115 (1937)) that the United States has the right to confiscate the property of enemy nationals situated in the United States. It follows that the return of any property hitherto vested under the Trading with the Enemy Act is an act of grace on the part of the United States. Persons adjudged to have been "major offenders" by tribunals composed exclusively of their fellow citizens have by their conduct forfeited any claim to become beneficiaries of this act of grace on the part of our government.

Title II

1. Eligibility of Claimants

Our principal recommendation with respect to this Title concerns the eligibility of claimants entitled to recover for war damages they sustained. The bill provides (page 21, lines 15-19, and page 27, lines 5-9) that, to be eligible to recover, the claimant must have been a citizen of the United States continuously from the time of the loss to the date of the filing of his claim. It is our view that the definition of an eligible claimant should be broadened to include persons who were residents of the United States by May 8, 1945, and who on the effective date of the law and at the time of the filing of their claims, are citizens of the United States.

The formula for eligibility adopted by S. 2227 obviously has its origin in a principle of international law that a government will espouse the claims only of persons who were citizens of the country at the time

of loss. This principle stems from the premise that a wrong to a person is a wrong to the state of which he is a citizen and that to redress that wrong the state will press the citizen's claim. By the same token, the theory is that a country is not involved in a wrong against a person of another nationality and therefore a state will not espouse the claim of a national of another country, although he may be a resident of that state. If the proposed legislation dealt with international claims in their classical sense, no objection could be raised to the formula of eligibility proposed by S. 2227. However, it should be noted that, though the damaged property is on foreign soil, S. 2227 involves no international claims. The claimant is not required to prove the wrongdoing of a foreign government. Nor is the fund from which claims are to be paid provided by a foreign government. The claimant is entitled to recover for losses sustained in the ordinary course of hostilities, and irrespective of whether the damage was inflicted by enemy or friendly troops. Moreover, the German Claims Fund contemplated by S. 2227 consists of money provided by the American taxpayer being repaid by Germany in settlement of her debt for post-war economic assistance provided by the United States Government.

It is important to bear in mind that S. 2227 is domestic legislation providing compensation not for international claims but for domestic claims. Not bound by any rule of international law, with respect to these claims, the Congress is free to adopt any principle of eligibility it deems just. It is in this context that we propose the broader definition. The equities in favor of the class of persons who would benefit by the broader definition are clear. They are persons who, in the main, were in the United States during the entire period of the war and who contributed to our war effort. Many of them either served in our military forces or had sons and other members of their families in our armed services. Moreover, they are persons

who for more than 10 years, had been, as taxpayers, in effect contributing to the fund which will be used to pay the claims in question. Inasmuch as they have renounced their foreign citizenship, there is no government other than our own to which they may appeal for a measure of relief for the war losses they sustained. In our view, the moral obligation of the United States to this class of persons is as great as it is to the persons who were citizens of the United States at the time of loss. It is clearly as great as it is to foreign national stockholders who will benefit by the recovery of corporations which under S. 2227 are eligible if as much as 50% of the stock is owned by foreign nationals.

Finally, I should add that the formula recommended by the American Jewish Congress is substantially the one recommended by the War Claims Commission in its Supplementary Report on War Claims, which, in turn, was applauded as just by authorities in international law and by experts on international claims.

Should it be maintained that the broadening of the definition of eligibility will result in the reduction of the amount of recovery of persons declared eligible under S. 2227, as presently written, we should say that this would be only a consequence of doing justice to claimants having equal priority. One class of citizens should not be permitted to profit by an injustice done to another class of citizens. If a remedy exists for this situation, it lies in increasing the amount to be appropriated for the war damage compensation and not in the denial of a remedy to those who in good conscience have as much right to participate in the fund as persons now provided for in S. 2227.

2. Area Where Losses Occurred

Another recommendation we submit to this Committee relates to the place where the loss must have occurred. Under the provisions of S. 2227 (page 21, lines 6-10) the loss, to be compensable, must have occurred in

Albania, Austria, Czechoslovakia, Germany, Greece, Poland and Yugoslavia.

We recommend that to the list of countries mentioned above there should
be added France, Belgium, Norway, Denmark, Holland and Luxembourg. *Estonia, Latvia and Lithuania* This

would include all the countries in the European Theater of Operations other than Hungary, Roumania and Bulgaria, with respect to which special legislation already exists.

It is true that in the countries we would add there are war damage compensation programs from which American citizens may in part recover for the local losses they sustained. However, we are advised that recovery under this legislation is slow, in many instances inadequate, and in any event, unequal. It is our view that all claimants should be placed on an equal footing. Our recommendation will accomplish that objective.

In this connection, it should be pointed out that under S. 2227, the amount of the award to any claimant is reduced by the amount the claimant is entitled to receive from any source on account of the loss with respect to which the award is made (page 26, line 23, et seq.). This provision will insure that no claimant who sustained a loss in an area in which local war damage compensation is available may recover twice for the same loss. On the other hand, our recommendation insures that all claimants will enjoy equality of treatment, whether they recover from the foreign government alone or from the combination of the United States and the foreign government.

In this connection, we point out an obvious inequity in S. 2227. As indicated, the bill provides that "In determining the amount of an award, there shall be credited all amounts the claimant has received or is entitled to receive from any source on account of the loss or losses with respect to which the award is made" (page 26, line 23, et seq.).

Since the bill provides for an apportionment of a fixed sum among all the

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awardholders, justice clearly demands that where a person has recovered in part for his losses from another source, the amount of his recovery should be deducted from the sums first made available for payment. Otherwise, and under the formula proposed by S. 2227, a person who recovered in part from another source, will receive an obvious and unmerited advantage over a person who obtained no such recovery.

3. Types of Compensable Losses

Our next recommendation relates to the types of losses that are to be compensable. The bill provides (page 22, line 18, et seq.) that to be compensable the claim must be for "physical damage to or physical loss or destruction of property ... as a direct consequence of military operations of war or of special measures directed against property during the war because of the enemy or alleged enemy character of the owner ..." It is our view that this provision is not only ambiguous, but, administratively, introduces a problem of proof that will offer untold difficulties. How will a claimant be able to prove that the property was "physically lost" or, in other words, that his property is no longer in existence, and how will the claimant be able to establish that the property of which he was deprived was taken from him "because of the enemy or alleged enemy character of the owner"?

The purpose of war damage legislation is to compensate for losses sustained as a direct result of military operations or of acts incidental to such military operation. It is our view that this objective would better be served if the bill read that, to be compensable, the claim must be for "damage, destruction or loss ... as a direct consequence of military operations, of war or of special measures directed against the property during the war."

In addition, we point out that while making provision for compensation for property losses sustained by American citizens during World War II, the bill virtually ignores the claims of civilian American citizens who sustained physical injury and the claims of the survivors of civilian American citizens who lost their lives as a result of military action. The only exception is a limited class of claims for injury or loss of life on the high seas. Traditionally, for example, following World War I, our country has given priority to claims for injury to person and for loss of life over claims for the loss of property.

May I conclude by indicating our endorsement of an amendment to S. 2227 which will provide for a bulk settlement of the claims of the restitution successor organizations for heirless property of persons deprived of their liberty or life on racial, religious or political grounds.

The American Jewish Congress is confident that this Committee will present to the Congress a bill which, taking into account the recommendations made above, will be in harmony with the traditional concepts of American justice. If the Committee desires, we will be pleased to suggest specific legislative language to implement our recommendations.

Respectfully submitted,

Abraham S. Hyman
Abraham S. Hyman

November 29, 1955

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*For our discussion Monday.
Best regards,*

Herman

STATEMENT OF DR. HERMAN A. GRAY

My name is Herman A. Gray. I am appearing today on behalf of the American Jewish Committee, in my capacity as a member of the Executive Board and of the Foreign Affairs Committee of the American Jewish Committee.

I believe that the nature and objects of the American Jewish Committee are too well known to require any extensive statement here. It is sufficient to point out that the American Jewish Committee was founded some forty-eight years ago, with the object of preventing the infringement of the civil and religious rights of Jews in any part of the world. It has from the date of its founding endeavored, in accordance with the statement in its charter, "to alleviate the consequence of persecution". It has been ever mindful of both the duties and the privileges of American citizens, and it has cooperated with the United States Government in many ways which have jointly advanced the purposes of the Government of the United States and of the Committee.

The matter to which I wish to address myself today arises specifically in connection with certain of the provisions of Title II of S. 2227, the so-called Administration bill, which is one of the bills before this Subcommittee. Although I shall propose an amendment directed to the provision of S.2227, the substance of my amendment would apply as well to any legislation which may be enacted by the Congress of the United States which would deal with the claims of American nationals

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arising out of or in relation to the war. In essence, what I wish to propose on behalf of the American Jewish Committee is that persons who have recently acquired American citizenship, and who are persecuted during or before the period of the war, should be treated on a basis of equality with other American citizens, in so far as claims comprehended by the legislation in question may be concerned.

The proposal which I urge upon the Subcommittee is incorporated in the following language:

Amend Title II, Section 201, of S. 2227, as follows:

"Section 201. As used in this Title, the term or terms -...
(c) the term 'national of the United States' includes (1) persons who are citizens of the United States, and (2) persons, citizens of the United States as of the effective date of this Act, who are qualified for return under the provisions of Section 9 (a) or 32 of this Act, and (3) persons who, though not citizens of the United States, owe permanent allegiance to the United States. It does not include aliens."

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The purpose of this proposed amendment is, I think, plain. It would make eligible to file claims under the legislation in question persons who have been regarded and treated as enemy by Germany or Japan during the war and who are citizens of the United States at the effective date of the legislation.

By way of introduction, I might say that the American Jewish Committee would be happy to see a simpler amendment introduced, which would merely make the condition of eligibility be that the claimant is a citizen at the effective date of the Act. We see, in fact, no substantial reason for discriminating against persons who have acquired their citizenship recently, when the question at issue is claims which arose out of persecution and out of wartime acts of our enemies. Nor do we know of any principles of international law which would prevent the United States, in enacting American legislation, from compensating all persons equally who are eligible claimants as of the effective date of the relevant legislation, without regard to the time when they acquired their American citizenship.

We recognize, however, that such an amendment would broaden the category of eligibility very substantially and that the funds which the United States proposes to appropriate for such claims -- the amount under S. 2227 is \$100 million -- might well be inadequate, were the category so greatly enlarged. In proposing the amendment which I have described above, we have been mindful of this possibility and have attempted to draft language which is based upon principles already embodied in legislation enacted by

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the Congress and approved by the President of the United States. That legislation has established that persons who were treated as enemy by the enemies of the United States are to be accorded substantially the same rights as citizens of the United States. That principle is embodied in such legislative enactments as the Trading With the Enemy Act, which in 1946 was amended to provide for return of property to persons who, while technically enemy nationals, were in fact treated as enemies by Germany and Japan and by their satellites, and in various international acts and agreements, among them the treaties of peace with Italy, Bulgaria, Hungary and Rumania, all of which were ratified by the Senate of the United States.

Prior to 1946, the Trading With the Enemy Act did not provide for return of property other than to nationals of the United States, or to other non-enemy nationals. The Congress decided, however, in amending the Trade With the Enemy Act in that year, that persecutees -- persons who were persecuted and deprived of their rights for political, racial or religious reasons -- were to be entitled to return of properties vested by the Alien Property Custodian. That program has been in effect since 1946 and it has enabled many people, among them a large number of present citizens of the United States, to obtain return of their properties from the Alien Property Custodian.

Similarly, when the treaties with the Axis satellites were negotiated, the United States insisted on the insertion of clauses which would guarantee that

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that persecutees had the same rights as United Nations nationals -- that is, nationals of any one of the United Nations. This was made particularly applicable to all claims with respect to damage to property. Thus, Article 78 of the Treaty of Peace with Italy, which is substantially identical with similar provisions in the other satellite treaties, provides for restoration of legal rights and interests in Italy of the United Nations and their nationals, for the nullification of measures of seizure and sequestration, for invalidation of transfers resulting from force or duress, and for the restoration to good order of the property returned. Paragraph 4 (a) of Article 78 states that where property cannot be returned or "where, as a result of the war, a United Nations national has suffered a loss by reason of damage to property in Italy, he shall receive from the Italian Government compensation in lira to the extent of two thirds of the sum necessary, at the date of payment, to purchase similar property or to make good the loss suffered". Paragraph 9 of Article 78 provides that "the term 'United Nations nationals'...includes all individuals, corporations or associations which, under the laws in force in Italy during the war, have been treated as enemy". A similar provision is also contained in Article 25 of the State Treaty with Austria. It will be noted that this provision is contained, therefore, in a treaty with a liberated country, as well as in the treaties with the former enemy countries.

Thus the United States has given direct rights with respect to property claims arising out of the war under the treaties of peace with Italy and the Balkan satellites to persons who were not United States nationals as of the time of the injury suffered by them or their property. This principle is clearly applicable to the claims which are here under discussion, particularly

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since it is suggested that eligibility be conditioned upon the possession of American citizenship as of the effective date of the legislation. A persecutee who was "treated as enemy" by our enemies during the war is regarded under the treaties which we have so far negotiated as a "United Nations national". If he is also an American national as of the present time -- or as of the effective date of the proposed legislation -- he should be given similar equality of treatment with other American nationals. There is no reason why the United States should have, as it did, guaranteed his treatment as a United Nations national under the treaties, only to withdraw such favorable treatment from him when the issue is remedial legislation in the United States.

There are in fact reasons why such persons should be allowed to file claims under the proposed legislation in addition to those which motivated a decision in favor of their eligibility under the treaties. In one way or another the funds which will be made available for the claims which are contemplated in Title II of S. 2227 (or under similar legislation) are funds which come directly or indirectly from the Treasury of the United States. S. 2227, for example, provides that \$100 million will be paid into the German Claims Fund out of any payments received by the United States, through the Export-Import Bank or otherwise, from the Federal Republic of Germany under Article 1 of the agreement between the United States and the Federal Republic of Germany regarding the settlement of the claim of the United States for post-war assistance to Germany. (This is the London agreement dated February 27, 1953.) Regardless of the earmarking of funds in this manner, it is

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it is clear that what is being done is to take funds which would otherwise go into the Treasury of the United States and to make them available for the special German Claims Fund. This means, in effect, that the present taxpayers of the United States are bearing the cost of this claims program. One hundred million dollars, which would otherwise be available generally for governmental purposes, upon Congressional authorization will become available for the claims described in the legislation. Clearly, the burden is being met by present taxpayers in the United States. Among those taxpayers, of course, are the persons who would, if the amendment which the American Jewish Committee recommends were adopted, become eligible claimants.

In this regard, the proposal made here is somewhat different from the similar proposal which has been made by the Washington Counsel of the American Jewish Committee, Mr. Rubin, in connection with the recently passed legislation regarding claims against the Balkan satellites. In those cases, the funds of the Balkan governments and of certain of their nationals were, pursuant to the treaties, utilized for American claims. In this case, what is being done is to take amounts which are due to the Treasury of the United States, and therefore are in equity owned equally by all citizens of the United States, and to use those funds for the claims described in the proposed legislation.

Under these circumstances, it is not merely those reasons which motivated the inclusion of Article 78 in the Treaty of Peace with Italy and similar

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similar provisions in the other treaties, and not merely those reasons which motivated the Congress to amend the Trading With the Enemy Act to provide for return of vested properties to persecutees, which argue for the proposed amendment. In addition, it is the principle that when the United States takes funds out of the general Treasury of the United States for certain groups of claimants, it shall not discriminate between those claimants on the ground of whether they have recently or remotely become American citizens. In all equity and good conscience, persons who would be United Nations nationals under the treaties, and who are now American citizens and taxpayers, are entitled to equality of treatment.

Finally, I should point out that there is no rule or principle of international law which in any way conflicts with the amendment which I propose. We are here discussing American legislation, disposing of American funds on behalf of American claimants. We -- that is, the Congress and the President, acting in accordance with our Constitution -- can deal with this matter in perfect freedom, subject always to those principles of equity as among citizens of the United States which that Constitution requires.

I therefore respectfully urge upon this Subcommittee that it favorably consider the language which I have proposed. I have, of course, no vested interest in that particular language, and another formula which would equally incorporate the principles of which I have spoken would be equally acceptable to the American Jewish Committee. It might be, for
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example, that language which referred to those persons who within the meaning of the Geneva Convention on Refugees were stateless, and who are now American citizens, would prove acceptable to the Subcommittee. The language which I have proposed has been drafted so as to conform as closely as may be to present legislation now in effect in the United States which incorporates tests which have been administered easily over the course of the years. Other language might well be devised which would be equally appropriate or superior. The basic point, however, is that those persons who were persecuted, who are regarded as United Nations nationals under the terms of the treaties to which we are already party, and who are now American citizens, should not be discriminated against in the allocation of funds which come out of the Treasury of the United States and in which, in all equity, they are entitled equally to participate.

Before I close, I should like to draw the Committee's attention to one other problem, which is of general interest to all American claimants. Under Section 203 (a) of S. 2227, compensation is limited to claims which arose out of property damage or loss in Albania, Austria, Czechoslovakia, Germany, Greece, Poland or Yugoslavia. It is my understanding that the reason why losses in these countries are to be compensated is that these countries have no statutory provisions for compensation in respect of war damage or no agreements with the United States giving equality of treatment under local war damage compensation legislation to American nationals. Representations have been made to the American Jewish Committee that in point of fact the situation is no different in a number of other European countries which are, however, excluded under the terms of the bill as drafted. In a great many of these countries, there is in fact no compensation available for war damage to the property of American nationals -- and when I use the

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term "American nationals" I, of course, refer hopefully to the definition which I have previously suggested. In many cases, countries not listed in Section 203 (a) provide no effective compensation for war damage, so that the equality of treatment of American nationals is an equality in the sharing of nothing at all. In other cases, the compensation provided is so inadequate as to be miniscule. In those cases, it would be our suggestion that it would be desirable to provide for compensation to American nationals with, however, adjustment for any compensation which may be received or due under awards made under foreign war damage claims legislation. The administrative feasibility of this kind of provision is indicated by the fact that it commonly occurs in other types of claims legislation.

I hope that these suggestions will meet with the Committee's and the Congress's approval, and I thank this Committee for its attention.

Statement before the Subcommittee on the Trading With
the Enemy Act of the Senate Committee
on the Judiciary

My name is Seymour J. Rubin. I am an attorney with offices in the District of Columbia, a member of the law firm of Landis, Cohen, Rubin and Schwartz, and I appear here as Washington counsel for the Jewish Restitution Successor Organization. I would like to urge upon this Committee legislation which has been drafted in the form of an amendment to the Administration bill, S. 2227, but which can stand on its own footing.

Basically, this is a proposal to amend the provisions of Public Law 626 of the 83rd Congress, Second Session. That law, which is now found as Subsection (h) of Section 32 of the Trading With the Enemy Act, put into effect as internal United States legislation a policy which the United States had long followed in its international relations. That policy was that heirless property which belonged to persons who had been persecuted by the Nazis in Germany or in occupied Europe for political, racial or religious reasons should be utilized for the benefit of the surviving members of that class of persecutee to which the deceased owner had belonged.

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

It was obvious from the outset, however, that vast amounts of property, which had been taken mainly from the Jews, but also from various other categories of persecutees, could never be recovered by individual claimants. The reason was that these individual claimants had perished in Buchenwald and Bergen-Belsen and the other concentration camps erected by the Nazi regime. Moreover, the Nazi policy of extermination was so thorough that vast amounts of

property would be unclaimed even by heirs, since whole families had been wiped out. Military Government Law 59 therefore provided a mechanism by which this heirless property could be claimed and collected by a charitable organization under procedures which ensured that the proceeds of this property would be used for a fundamental objective of the Allied nations -- the relief and rehabilitation of those who had formerly been persecuted.

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

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

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legislation was first introduced in 1948, three years after the end of World War II. It was the conviction of the distinguished sponsors of this legislation seven years ago that this matter must be handled with dispatch in the interest of the surviving victims of Nazi persecution.

In the 83rd Congress, a bill to this effect was sponsored by Senators Hennings, Dirksen and Langer, and that bill became Public Law 626, to which I have previously referred. Public Law 626 established the principle that heirless property found in the United States should be used, under strict standards laid down in the legislation, for relief and rehabilitation of the surviving category of persecutees. I need not go into the details of that legislation; but it is indicative that the legislation provides that no portion of the funds to be made available to a successor organization under Public Law 626 is to be used for administrative or legal expenses. Reports are to be made to the Congress and every safeguard is present to ensure that the totality of the funds will be used within the United States for the relief of deserving, needy persons.

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

I do not wish to take more of the time of this Subcommittee than is necessary in detailed explanation of the procedures which have so far been devised, but I think some brief outline of them is necessary to an understanding of the present problem. The Jewish Restitution Successor Organization was faced with the fact that no one -- no private individual and no Government office -- had any lists, records, or organized sources of information available which would indicate which were the properties or interests which,

under the law, the Jewish Restitution Successor Organization was entitled and in duty bound to claim. Procedures therefore had to be devised. On request, the Office of Alien Property provided a list to the Jewish Restitution Successor Organization. This list contained the names found in all of the vesting orders issued -- some 44,000 of them -- by the Office of Alien Property during the years of its existence since World War II. Experts then carefully examined these lists and, from their knowledge of European communities and nomenclature, and in some cases from direct knowledge, put together another list containing those names which were distinctively Jewish. This acknowledgedly rough material was then subjected to the series of refining processes. First, the Office of Alien Property went through the lists and checked off those names as to which title claims -- that is, claims for return of the property -- already existed. Quite clearly, except in those cases in which the claim might be disallowed, these names did not represent assets to which the Jewish Restitution Successor Organization could properly lay claim, since it can, in any case, ask for the return to it only of unclaimed property. The Jewish Restitution Successor Organization then filed, as putative successor under Public Law 626, thousands of claims, which in general -- though not entirely -- reflected those names as to which no conflicting title claim was pending. This was a monumental task, which had to be completed by mid-August, 1955.

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

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

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The above recital is, we believe, sufficient to indicate the absolute necessity of legislation which would permit and direct the Office of Alien Property to work out a bulk settlement of these claims with the Jewish Restitution Successor Organization. In the absence of a bulk settlement, the Jewish Restitution Successor Organization -- which by statute is prohibited from debiting any of these funds to its administrative expenses -- would have to process at least 4,500 individual claims. The ordinary claimant has difficulty enough in assembling proofs and evidence. And he, it will be remembered, knows what property he is claiming, what his proofs are, where the property was located in the United States, what bank held his deposit, etc. In almost no case is the Jewish Restitution Successor Organization in possession of this kind of basic information at the outset. To the extent that such information is at all "available", it is likely to be in governmental files, which for one reason or another bear a security classification, and therefore may not be open to the Jewish Restitution Successor Organization. Ascertaining the facts and assembling the proofs in thousands and thousands of cases, where by definition the original owners and their entire families are dead and vanished, their records generally burnt or destroyed, is an administrative and practical task of such magnitude as to stagger the imagination. It is so great a task, in fact, that it seriously jeopardizes the clear objective which the Congress sought in enacting Public Law 626 -- the provision of heirless funds, speedily and without deduction of any kind, for the relief of surviving, needy persecutees now in the United States. It is certain that the sponsoring Senators and the Congress did not anticipate the enormity of this Administrative task when Public Law 626 was enacted.

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

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

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

The Jewish Restitution Successor Organization has therefore worked out step-by-step procedures which will minimize the risk of error in the preparation of the necessary estimates upon which a bulk settlement can be based. It has discussed these plans with officials of the Executive and Legislative Branches in order to make them as careful and the results as accurate as possible. I should like to take a few moments to describe these procedures.

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

The Jewish Restitution Successor Organization does not assume that all of the claims on file by it represent heirless property. Clearly, if the property covered by these claims was Jewish, and if there is no adverse claim, the property is heirless and unclaimed. Persecutees or their heirs have had

have had the right since 1946 to file individual claims for the return of their property. If they have not done so, the presumption is inescapable that the property is heirless -- a presumption recognized, in fact, in Public Law 626. In this connection, it may be pointed out that Public Law 626 provides that individuals who in fact have survived or heirs of such individuals may within a period of two years apply to the successor organization and obtain return of their assets if the successor organization has claimed those assets on the assumption that they are deceased. These provisions, which the Jewish Restitution Successor Organization would, of course, apply in the event of a bulk settlement, amply protect any individual claimant.

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

The intensive work which has already been done in this connection has served to dramatize the difficulties which the Jewish Restitution Successor Organization and the Government face in determining the facts. The tremendous disruption which occurred in Germany as a result of many factors is the basic cause for these difficulties. In the case of persecutees, people were, of course, shifted from one part of Germany to another and ultimately to concentration camps. Persecutees were deported, sent to work in some cases in concentration camps or elsewhere, and records were extensively destroyed by bombardment and by damage resulting from the war. In many cases, all of the birth records or other public records of entire cities were completely destroyed during the course of the war. The investigation has therefore disclosed

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

Under the best of circumstances, the tracing of thousands of names would present administrative difficulties of the highest order. Under these special circumstances, the task is, as I have said, almost insuperable. Making the best estimate which can be made on the basis of these eminently unsatisfactory and difficult data, we feel that at least 50 percent of the claims which have been filed by the Jewish Restitution Successor Organization with the Office of Alien Property do conservatively represent legitimate heirless property claims. This estimate is based on ability of the Jewish Restitution Successor Organization in some cases actually to establish the fact that persons were Jewish; inability to find any existing record of such persons in circumstances which indicate that the Jewish population of a particular city was deported and the records destroyed; and all other data, such as checking of the records of the International Tracing Service, which are admittedly incomplete but which might cast some light on the situation.

We may therefore estimate that 50 percent of these claims do

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represent property to which under Public Law 626 the Jewish Restitution Successor Organization is entitled. We are then faced with the problem of determining what the average value of the Jewish Restitution Successor Organization claims is.

Here we have the benefit of some statistical material which has been prepared on three separate occasions and by two separate sets of people.

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

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

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

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

One may take at least 50 percent of the 4,558 clear Jewish Restitution Successor Organization claims to represent claims cognizable under Public Law 626. The figures indicate an average value of upwards of \$1,000 per claim. On this basis alone, one arrives at an estimate of \$2,250,000 as the total value of Jewish Restitution Successor Organization claims. In addition, we must remember that there are 2,341 claims of the Jewish Restitution Successor Organization as to which there is some adverse title or

debt claim, but in which there is undoubtedly a considerable surplus value to which the Jewish Restitution Successor Organization would be entitled. In addition, there are the amounts which are involved in the so-called omnibus accounts. These, as I have mentioned, are accounts held through Swiss or other banks. A certification procedure was put into effect with respect to these accounts some years ago which allowed legitimate claimants to come forward and to obtain the release of their properties held in these accounts. Some portion -- although admittedly the figure is indefinite -- of the amounts which remain uncertified and therefore still in the hands of the Office of Alien Property must necessarily represent heirless assets, though, of course, a considerable amount may represent other types of property.

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

The Jewish Restitution Successor Organization has therefore suggested an amendment which will authorize and direct the settlement of its claims by payment of an amount to be not less than \$2 million nor more than \$3 million. The \$3 million ceiling was incorporated in Public Law 626 in order to ensure that amounts payable to the Jewish Restitution Successor Organization would not exceed the financial availabilities out of assets and funds within the hands of the Office of Alien Property. We suggest that the \$2 million floor is equally appropriate. Obviously, a tremendous amount of administrative work has already been done, some of which has been indicated in the previous portions of my present statement. A substantial amount of administrative work, in addition, will have to be done by the Jewish Restitution Successor Organization in the effective presentation of its claims and in implementation of Public Law 626. It was clearly the view of the Congress in enacting Public Law 626 that some substantial amounts should be made available for the purposes of that law. The Jewish Restitution Successor Organization is in effect a trustee of charitable funds -- both those

which it may receive under Public Law 626 and those which it receives from other sources, but which are devoted to similar relief and rehabilitation work. It would not be appropriate, nor do we think that it would be in accordance with the clearly expressed intent of the Congress, to require that this tremendous amount of work be done without a guarantee of some substantial funds being available. Just as the ceiling of \$3 million was inserted for practical administrative reasons, without regard, in effect, to the possibility that the claims might exceed that amount, and was accepted on that basis, so the suggested \$2 million floor ought be contained in the proposed legislation for similar practical administrative reasons. It is clearly to the interest of the Government, of the charitable organizations involved, and of the surviving persecutees who are now in the United States and who are dependent upon public or private charity, that the intent of the Congress to provide substantial funds be carried out as quickly as possible and with assurance that these funds will reach the intended beneficiaries. This the proposed amendment is designed to effect.

The text of the amendment proposed by the Jewish Restitution Successor Organization has previously been submitted to counsel for this Subcommittee, to the Office of Alien Property, and to the Department of State. We feel that it will enable the original purpose of the Congress in enacting Public Law 626 to be carried out. We feel that it will result in funds expeditiously and without a tremendous burden of administration coming into the hands of agencies which can use them for actual and direct relief and rehabilitation purposes, as was originally contemplated by the Congress. And we feel that this amendment is good for the Government, good for the charitable and relief organizations which are concerned, and good for the intended beneficiaries. The Congress has declared that the funds left in the United States by those who perished in the Nazi concentration camps should be used for the benefit of surviving victims who are now in the United States and are needy. It is incumbent upon us to take measures to ensure that this intention is carried out and that these funds are made available while the intended beneficiaries are still alive to receive their benefit. And it seems entirely appropriate that action should be taken to ensure this result at a time when, in one form or another, legislative action is likely to be taken for the relief of German and Japanese claimants. The most limited proposal for the

return of enemy assets as envisaged in the Administration Bill S.2227 is estimated by the Department of State to involve about \$60 million.

Attached to my statement there is a text of a proposed amendment, which, on behalf of the Jewish Restitution Successor Organization -- and, I think I can also say, on behalf of all those interested in the welfare of these surviving victims of Nazi persecution -- I earnestly commend to the sympathetic attention of this Subcommittee and of the Congress.

Thank you for your attention and for your time.

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Proposed Amendment to the Trading with the Enemy Act.

Section 32 (h) of the Trading With the Enemy Act, as amended, is further amended by adding at the conclusion thereof: "The President or such officer as he may designate is authorized and directed to settle claims presented by a successor organization previously designated pursuant to this subsection by payment of an amount not less than \$2 million nor more than \$3 million. Determination of such amount shall be made by the President or such officer as he may designate not more than six months after the effective date of this Act. Such determination shall be made upon the basis of hearings at which such designated successor organization shall have the right to appear and to present evidence, and such determination shall be final."

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JUN 28 1958

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Single page

Explanatory Memorandum
to the suggested Amendments
to S. 2227

4 and 8
Ad ~~(1)~~ and ~~(5)~~. S. 2227 is based on the assumption that U.S. citizens who suffered losses in West Europe are obtaining compensation for the damage from the country where the loss occurred. This assumption is incorrect because of the lacunes in the war damage legislation of those countries and because payments thereunder are not forthcoming. There is no reason to deprive U.S. citizens who suffered losses in West Europe of the medium of compensation provided for in S. 2227 because of the theoretical possibility of receiving payments under the reciprocity agreements between the U.S.A. and the relevant West European country.

The proposed amendment to Section 211(a) ^{will eliminate the possibility that} equalizes ~~the status of all claimants.~~
^{such claimants of this compensation twice.}

5
Ad ~~(2)~~. Section 203(a) provides compensation only for physical damage ^{to} or loss of property, ^{or destruction} resulting from military operations or special measures directed against property because of the enemy or alleged enemy character of the owner. This provision excludes all losses suffered by the owner through confiscatory measures of the Germans -- losses which are as much the result of the war as physical destruction. ^{as stated above} Furthermore, ~~the expression "alleged (enemy character of the owner)"~~ is vague and the requirement that the measures must have been directed against the property because of the enemy or alleged enemy character of the owner is inconsistent with the proposal ^{in (3) above} to ~~cover all persons who are U.S. citizens on the effective date of the law.~~

6
Ad ~~(3)~~. Section 203 provides compensation for bodily damage ^{to body, life and health} only in para (d). Actually such damage is more difficult to bear than material damage.

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Proposed Amendments to S. 2227

1. Amend the proposed Section 40 (to be added to the Trading With the Enemy Act) as follows:

"Section 40 . . . (c) No return of vested property shall be made pursuant to this Section to - - - . . .

(3) any person convicted of war crimes ^{found to be} or listed as a junior offender' under program for the denazification or demoralization of Germany or Japan ^{instituted} by any of the Allied Powers which exercised jurisdiction in the three Western zones of Germany or by the Supreme Commander for the Allied Powers in Japan."

2. Amend Title II, Section 201, as follows:

"Section 201. As used in this Title, the term or terms - - - . . . (c) the term 'national of the United States' includes (1) persons who are citizens of the United States, [] and [] (2) persons, citizens of the United States on the effective date of this Act, who are qualified for return under the provisions of Sections 9 (a) or 12 of this Act, and (3) persons who, though not citizens of the United States, owe permanent allegiance to the United States. It does not include aliens."

3. Insert a new paragraph after paragraph (c) of the proposed Section 40, as follows:

"(d) A natural person (or his legal representative, whether or not appointed by a court in the United States, or his successor in interest by inheritance, devise, or bequest, as their interests may appear) whose assets were vested by the United States prior to 1939 shall be entitled to a return of such portion of that property as has not yet been returned, provided that in no case shall the amount returned pursuant to this authority exceed \$10,000."

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✓ On the date of loss, damage, destruction, or removal and ^{subsequently} thereafter until the date of filing these claims with the Commission pursuant to this Act were a national of the United States . . .

Proposals for the Amendment of
S. 2227 (over and above those which
have already been suggested by Sy Rubin)

4. ^{Title II,}
(1) ~~It is proposed to~~ ^Rreplace in Section 201 the words "and Yugoslavia" with the words "Yugoslavia, France, Belgium, Holland, Denmark, Norway and Luxembourg."

^{Title II,}
Similarly, in Section 203(a), third line, the words "or Yugoslavia" shall be replaced with the words "Yugoslavia, France, Belgium, Holland, Denmark, Norway or Luxembourg."

5. ^{Title II,}
(2) ~~It is suggested to~~ ^Rreplace in Section 203(a), line 1, the words "Physical damage to, or physical loss or destruction" with the words "damage, destruction or loss." Similarly, in line 6 ff. the words "property during the war because of the enemy or alleged enemy character of the owner" shall be replaced with the words "the property during the war."

6. ^{Title II,}
(3) ~~It is proposed to~~ ^Rsupplement Section 203 by the following subpara:
"(e) deprivation of liberty or damage to health or life of any person who being then a civilian was incarcerated or interned or killed or injured as a result of action by any German authority or official."

7. ^{Replace in Title II,}
(4) ~~In~~ Section 205(a), lines 2 ff., the words "date of loss, damage, destruction or removal and continuously thereafter" ~~shall be replaced~~ with the words "effective date of this law."

8. ^{Supplement + Title II,}
(5) Section 211(a) shall be supplemented by the following para:

"(5) Payments received by the claimant from any other State in compensation for the relevant loss or damage shall be set off against the payments to be made pursuant to this law."

which circumstance is recognized in Section 211(a). There is no reason why
this ^{principle of Section 211(a)} same principle (should not be applied to deprivation of liberty (detention)
and loss of life and damage to health in general.

7

Ad (4). This amendment is required in order to bring Section 211(a)
in accordance with the proposed wording of Section 201(e).

Proposals for the Amendment of
S. 2227 (over and above those which
have already been suggested by Sy Rubin)

(1) It is proposed to replace in Section 201 the words "and Yugoslavia" with the words "Yugoslavia, France, Belgium, Holland, Denmark, Norway and Luxembourg."

Similarly, in Section 203(a), third line, the words "or Yugoslavia" shall be replaced with the words "Yugoslavia, France, Belgium, Holland, Denmark, Norway or Luxembourg."

(2) It is suggested to replace in Section 205(a), line 1, the words "Physical damage to, or physical loss or destruction" with the words "damage, destruction or loss." Similarly, in line 6 ff. the words "property during the war because of the enemy or alleged enemy character of the owner" shall be replaced with the words "the property during the war."

(3) It is proposed to supplement Section 203 by the following subpara:

"(e) deprivation of liberty or damage to health or life of any person who being then a civilian was incarcerated or interned or killed or injured as a result of action by any German authority or official."

(4) In Section 205(a), lines 2 ff., the words "date of loss, damage, destruction or removal and continuously thereafter" shall be replaced with the words "effective date of this law."

(5) Section 211(a) shall be supplemented by the following para:

"(5) Payments received by the claimant from any other State in compensation for the relevant loss or damage shall be set off against the payments to be made pursuant to this law."

S. 2227

(1). Mr. Rubin's proposed amendments to S. 2227 deal with three problems:

(a) extension of the eligibility to "new" U.S. citizens; (b) exclusion of "major offenders", and (c) return of property vested prior to 1939.

(2). It must be considered that Mr. Rubin's proposed amendment to Section 201 would only partially accomplish what it was set out to accomplish:

(a) Section 203(a) is so restrictive in the definition of the loss that only physical war damage suffered by "new Americans" would be compensated. The term "alleged enemy character of the owner" would probably exclude losses suffered on account of racial or religious persecution (this is the apparent intention);

(b) the requirement of U.S. citizenship on the date of loss is stipulated not only in Section 201, but also in Section 205(a).

(3) The S. 2227 is restricted to the war period, i.e. the time between Sept. 1, 1939 and May 8, 1945 (Section 203(a)). In other words, contrary to the "Satellite" law, communist confiscatory measures are not regarded as loss or damage. No proposal was made to alleviate this deficiency because this may stretch the law beyond reasonable limits in view of the limited amount of available funds. However, it may be wise to consider whether a proposal to cover confiscations in Poland and Czechoslovakia should not be undertaken.

(4) Damage to liberty, life and health is not covered in S. 2227 but those who suffered such losses are probably the most deserving persons. True, this would be a "loss" not contemplated by the drafters of the bill but I feel that we have at least to make an effort in this respect.

(5) The problem of West Europe is - I assume - clear. There is one point which is rather illogical in the bill -- West Germany pays compensation (or at least there is a law to this effect) for war damage. Similarly, Austria is granting interest-free loans to rebuild buildings, which amounts to a grant of considerable extent. Under the State Treaty the possibility of war damage compensation is provided for -- something which is not much different from the reciprocity clause in regard to West Europe. In none of these cases ^{is} account is taken of the factual or possible payments, as in general nothing is provided in case of future payments by any of the States enumerated. This should strengthen our position with regard to West Europe.

Proposed Amendments to S. 2227

1. Amend the proposed Section 40 (to be added to the Trading With the Enemy Act) as follows:

"Section 40 . . . (e) No return of vested property shall be made pursuant to this Section to - - . . .

(3) any person convicted of war crimes or found to be a 'major offender' under programs for the denazification or democratization of Germany or Japan instituted by any of the Allied Powers which exercised jurisdiction in the three Western zones of Germany or by the Supreme Commander for the Allied Powers in Japan."

2. Insert a new paragraph after paragraph (c) of the proposed Section 40, as follows:

"(d) A natural person (or his legal representative, whether or not appointed by a court in the United States, or his successor in interest by inheritance, devise, or bequest, as their interests may appear) whose assets were vested by the United States prior to 1939 shall be entitled to a return of such portion of that property as has not yet been returned, provided that in no case shall the amount returned pursuant to this authority exceed \$10,000."

3. Amend Title II, Section 201, as follows:

"Section 201. As used in this Title, the term or terms - - . . . (c) the term 'national of the United States' includes (1) persons who on the date of loss, damage, destruction, or removal and continuously thereafter until the date of filing their claims with the Commission pursuant to this Title were citizens of the United States, [and] (2) persons, citizens of the United States as of the effective date of this Act, who are qualified

for return under the provisions of Sections 9 (a) or 32 of this Act, and
(3) persons who, though not citizens of the United States, owe permanent
allegiance to the United States. It does not include aliens."

4. Replace in Title II, Section 201 the words "and Yugoslavia" with the words "Yugoslavia, France, Belgium, Holland, Denmark, Norway and Luxembourg."

Similarly, in Title II, Section 203 (a), third line, the words "or Yugoslavia" shall be replaced with the words "Yugoslavia, France, Belgium, Holland, Denmark, Norway or Luxembourg."

5. Replace in Title II, Section 203 (a), line 1, the words "Physical damage to, or physical loss or destruction" with the words "damage, destruction or loss." Similarly, in line 6 ff. the words "property during the war because of the enemy or alleged enemy character of the owner" shall be replaced with the words "the property during the war."

6. Supplement Section 203 (Title II), by the following subpara:

"(e) deprivation of liberty or damage to health or life of any person who being then a civilian was incarcerated or interned or killed or injured as a result of action by any German authority or official."

7. Replace in Title II, Section 205 (a), lines 2 ff. the words "date of loss, damage, destruction or removal and continuously thereafter" with the words "effective date of this law."

8. Supplement Title II, Section 211 (a) with the following para:

"(5) Payments received by the claimant from any other State in compensation for the relevant loss or damage shall be set off against the payments to be made pursuant to this law."

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AUG 1945

MEMORANDUM WITH RESPECT TO PROPOSED AMENDMENTS TO S. 2227

The following comments refer to the proposed amendments by their paragraph numbers.

Ad 1. Both in Germany and Japan lists were maintained and officially promulgated of persons who were "major offenders" under the Fascist regimes in Germany and Japan. Such persons were not necessarily convicted of war crimes. They were such persons as high officials in the SS or the SA, leading collaborators with the Nazi regime, etc., who were in all cases active and vigorous proponents of totalitarianism, but in many cases were not actually convicted of war crimes. In some of these cases, the persons in question may very well have been accused of war crimes, but evidence against them may have disappeared in the course of the years while the more public figures were occupying the attention of the courts. It does not seem appropriate that such persons should be given the benefit of an ex gratia return of up to \$10,000 by the United States.

It may be added that there were many other categories of persons guilty of Nazi or Fascist affiliations or acts. The proposed amendment excludes only those persons who were listed as major offenders, and allows the benefits of the proposed legislation to be enjoyed by the much larger categories of persons who were affiliated with Fascism or Nazism in a somewhat lesser, though often very substantial, degree.

It may be pointed out that if this amendment is adopted, it would be appropriate to amend also Section 40 (p) (2) to add a definition of "major offenders". Such definition should not be difficult, since lists of such persons were in fact promulgated.

Ad 2. This amendment proposes the return of up to \$10,000 apiece to persons whose assets were vested during World War I. In connection with various post-World War I legislative enactments, a good deal of such property was returned. The remainder was held by the United States as security for the discharge of certain obligations of the German Government. The German Government undertook what was in fact an obligation to compensate the owners of such property for that portion which was thus retained as security by the United States.

A number of such persons are persons who would be eligible for return of their property had it been vested during World War II — that is, they are racial, religious or political persecutees.

It would seem anomalous to return properties vested during World War II and to retain properties vested during World War I. Compensation for the persons whose property was taken during World War I was to be paid under agreements between the United States and Germany. The requirements of good faith would seem to compel either the return of such property or fulfillment of the German obligation to compensate the former owners in Deutschmarks. Although the obligation to return in this instance would seem to be one for return of the entire amount of the property, the suggested amendment has been limited to

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a return of \$10,000 per person in order to conform this provision to the limitations otherwise contained in the proposed legislation.

✓ or other rights
Ad 3. This amendment would make eligible to file claims under this law for war damage or for measures taken against the property of persons who have in fact been treated as enemy by Germany and her allies during the war and who are nationals of the United States at the effective date of the Act.

Since 1946, the United States has pursued a statutory policy of returning their property in the United States to such persons. Political, racial or religious persecutees have, almost since the end of the war, been able to file claims with the Office of Alien Property for the return of their vested assets. The authority for this legislatively recognized policy has been that such persons were the "enemies of our enemies". Having been classed by the Germans and their satellites as enemies and as in fact affiliated with the United States and its allies, it was considered to be unjust not to give them the right to return of their property in the United States.

Similarly, these "enemies of our enemies", who are now nationals of the United States, ought to be given the right to file claims against the special fund being set up under Title II of S. 2227. The proposed legislation is ambiguous on whether such persons are or are not eligible under its terms. This ambiguity ought to be resolved in favor of such eligibility. Section 203 speaks of compensation for "special measures directed against property during the war because of the enemy or alleged enemy character of the owner." The property of persecutees -- political, racial or religious -- was no less subjected to special measures as sui generis "enemy property" than the property of American, British or French nationals. Equity would seem to require that such persons, who are now citizens of the United States, be allowed to place their claims for war damage and special measures against the special fund being created. Particular attention is called to the circumstance that the \$ 100 million Fund is provided by the U.S. Treasury from tax moneys which are paid uniformly by all U.S. nationals regardless of when they acquired this status.

Ad 4 and 8. S. 2227 is based on the assumption that U.S. citizens who suffered losses in West Europe are obtaining compensation for the damage from the country where the loss occurred. This assumption is incorrect because of the lacuna in the war damage legislation of those countries and because payments thereunder are not forthcoming. There is no reason to deprive U.S. citizens who suffered losses in West Europe of the modicum of compensation provided for in S. 2227 because of the theoretical possibility of receiving payments under the reciprocity agreements between the U.S.A. and the relevant West European country.

The proposed amendment to Section 211(a) will eliminate the possibility that claimants obtain compensation twice.

Ad 5. Section 203(a) provides compensation only for physical damage to or physical loss or destruction of property, resulting from military operations or special measures directed against property because of the enemy or alleged enemy character of the owner. This provision excludes all losses suffered by the owner through confiscatory measures of the Germans -- losses which are as much the result of the war as physical destruction. Furthermore, as stated above the expression "alleged (enemy character of the owner)" is vague and the requirement that the measures must have been directed against the property because of the enemy or alleged enemy character of the owner is inconsistent with the proposal in (3) above.

Ad 6. Section 203 provides compensation for damage to liberty, life and health only in para (d). Actually such damage is more difficult to bear than material damage, which circumstance is recognized in Section 211(a). There is no reason why the provision of Section 211(a) should not be applied to deprivation of liberty (detention) and loss of life and damage to health in general.

Ad 7. This amendment is required in order to bring Section 211(a) in accordance with the proposed wording of Section 201(c).

JEWISH RESTITUTION SUCCESSOR ORGANIZATION

270 Madison Avenue

New York 16, N. Y.

22 September 1955

To: Mr. Maurice M. Boukstein
Dr. Eugene Hevesi
Mr. Abraham Hyman
Dr. Nehemiah Robinson
Mr. Seymour J. Rubin

From: Saul Kagan

This will confirm that we will meet on Thursday, September 29, 1955, at 9:30 a.m. in Suite 800, 270 Madison Avenue, New York City, to discuss:

1. Bulk Settlement Claims of J.R.S.O. under P. L. 626.
2. Persecutee interests under legislation for return of German assets.
3. Heirless assets in New York State.

In connection with the problems arising under the proposed legislation, I am enclosing copy of Mr. Rubin's letter of September 15, 1955, and copy of Dr. Robinson's letter of September 19, 1955.

Please bring to the meeting previous correspondence on the above subject from Mr. Rubin and myself.

Sincerely yours,



Saul Kagan

2 encls.

cc:BBF
JJJ

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~~SECRET~~
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September 25, 1950

Mr. Marian Wood
General Counsel
Subcommittee on the Trading
With the Enemy Act
Committee on the Judiciary
United States Senate
Washington 25, D.C.

Dear Mr. Wood:

First, I would like to thank you for the time and attention given to me by you and Mr. Saitty at our meeting on September 14. I hope very much that our discussion will be helpful to the Subcommittee and to the Congress.

Recently, you and Mr. Saitty indicated interest in those portions of the memoranda which I indicated I had written for Senator Lehman's office which dealt with matters other than the problem of heirless property and a bulk settlement of the claims of the Jewish Restitution Successor Organization under Public Law 626, 83rd Congress. I have had retyped the portions of that memorandum relating to those subjects, and I enclose this portion of the memorandum for Senator Lehman herewith. You will find that the memorandum consists of proposed amendments and explanatory notes with respect to these amendments.

I should like to add a few comments which relate both to our discussion and to the two memoranda -- the one handed to you on September 14 and the one enclosed herewith.

1. All of the amendments mentioned above have been drafted in the form of amendments to S. 2227. As I indicated in your office, I did this because I had been asked for comments on the Administration bill. Although I am generally familiar with the other bills before the Committee, I have not examined them in all detail. I believe, however, that the substantive points made in the proposed amendments to S. 2227 would be appropriate in any legislation which might concern the problem of return of enemy private assets, in whole or in part, and the related problem of claims of American nationals.

2. So far as the amendment with respect to a bulk settlement is concerned, I strongly feel that this amendment has very great merit, not only from the point of view of the intended beneficiaries of the heirless property funds but also from the point of view of the United States. Unless the substance of this amendment is enacted, it is inevitable that the Office of Alien Property will be burdened with literally thousands of individual claims, many of which are very small in amount, but which will nevertheless require individual processing by the Government. In addition, there is the matter of necessary individual investigation of cases the history of which is obscured in the holocaust of Nazi Germany. I feel sure that the Congress, in enacting Public Law 626, intended substantial benefits to reach the surviving persecutees and did not contemplate a situation in which administrative costs might amount to a substantial portion of the total funds returned to the Jewish Restitution Successor Organization as successor to persecutees who died without heirs. This amendment stands on its own feet. It is phrased as an amendment to S. 2227, but

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any more appropriate or easy form for the amendment would be equally acceptable.

3. My original memorandum hit a few of the high spots, as I saw them, in S. 2227. There are other suggestions which I believe have equal merit. I do not want to burden you with an extended discussion of these at this time, but I might outline two examples of what I have in mind.

(a) The Administration bill, S. 2227, provides that American nationals may have claims up to the amount of \$10,000 for certain losses if those losses were suffered in certain countries -- Germany, Austria, Poland, Greece, et al. It excludes losses suffered in such occupied countries as Belgium, France, et al. I understand that the theory behind this distinction is that the latter countries have agreed that American nationals will share equally with local nationals in such war damage compensation as is granted by the governments of these countries. I must confess that I fail to see the relevance of this argument in those cases -- which are, as I understand the facts, substantially all of the cases -- in which the undertaking to give equal treatment is merely an undertaking to give little or nothing both to local and to American nationals. For example, under the bill an American national who had had property damaged in Greece would be entitled to a claim in the amount of \$10,000. An American national who had had property damaged in Belgium would be entitled to no claim, even though the Belgian Government had awarded him no compensation whatsoever. Needless to say, I would hope that if something were done to rectify this factual discrepancy, the amendment which I propose, which would include as eligible claimants persons who were citizens of the United States as of the effective date of the proposed legislation and who were persecutees, would be adopted.

(b) It has been common practice in claims legislation enacted in the post-war years, as, for example, the legislation with respect to claims against Bulgaria, Rumania, Hungary, et al, adopted in the last session of the Congress, to provide that a claimant cannot recover more than the amount which he has paid for his claim since a date some years past. In other words, if John Jones owned property in Rumania which was expropriated, and if he sold his rights to William Smith in 1951, Smith as the claimant could recover no more than he had paid for the claim. The obvious reason for this limitation is to prevent profits being made in speculative transactions by persons who are essentially speculators and not the original owners of the property.

I would think that the same principle should be applied with respect to such returns of enemy private property, whether or not limited by the \$10,000 ceiling proposed by the Administration. This would apply the same principle to the foreign claimants as has regularly been applied to American claimants, and would prevent the generous action of the United States Government being used as a vehicle for speculative profits by those who have dealt in the possibility of return legislation since the end of World War II. It is, as you probably know, rumored that there has been great speculation in these claims, not merely in Germany but also such

countries as Switzerland, and that many of the claims for return under any legislation which may be enacted providing for return of German and Japanese assets will be put forward by speculators rather than the original owners.

I hope that we may have the opportunity to talk again about these problems in the near future. In the meantime, I can assure you that I am entirely at your disposal and at the disposal of the Subcommittee for such consultation or discussion, informal or otherwise, as you may desire.

Sincerely yours,

Seymour J. Rubin

Enclosure

WORLD JEWISH CONGRESS

15 East 84th Street
New York 28, N. Y.

September 19, 1955

Mr. Saul Kagan
Conference on Claims
270 Madison Avenue
New York 16, N. Y.

Dear Saul,

Thanks for your letter of September 14 ~~is~~ S. 5527 (I don't have this version of the bill) and the enclosure.

There is a slight misunderstanding in the second sentence of the second para: the proposed amendment refers to the "new" citizens only, those owing allegiance (but not aliens) have been included from the very beginning.

I am not as convinced as you are regarding the extension of the bill to Western Europe provided it does not collide with the reciprocity agreements on war damages. There is no reason why an American citizen who suffered damage (bodily or other) in Western Europe should be worse off than one whose damages was caused in Albania, etc. I would therefore propose to draft an amendment along these lines to read approximately as follows (since I don't have the new version of the bill, the proposal is very tentative indeed):

"Physical damage to property located in France, Belgium or Holland provided the loss was not compensated at all or below the limit set in this law, on the basis of the reciprocal agreements on war damage compensation between the USA and the Governments of France, Belgium and Holland."

I am at a loss to understand why compensation is restricted to property, except on ships. This proviso would exclude compensation to civilian internees and for loss of life and health even if due to action of the enemy.

I don't know whether the language of Section 203 of H.R. 6730 was amended. But it has not been changed, the proposed amendment to Section 201 S. 2227 may not result in any benefits to the "new" Americans because Section 203 of H.R. 5230 requires that the damage must have been "directed against the property during the war, because of the enemy or alleged enemy character of the owner" of the property." It is not improbable that the US authorities will interpret this provision in the same sense as the US-Italian Conciliation Commission interpreted Art. 78 of the Italian Peace Treaty, viz. that the action must be based on war legislation (anti-Jewish action is not sufficient).

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Consequently, the equivalent of Sect. 203 (a) of H.R. 6730 must be amended to assimilate such loss to damage as a result of action against enemy nationals (see the wording of H.R. 5840, Section 48).

I am not wholly positive about the meaning of the word "listed" in the proposed amendment to Section 40 (e) (3); you know that the German Nazis were first put into a certain category, then at various times were reclassified as the classification was changed frequently. The word "listed" may refer to the initial action of classification but I doubt that this would be accepted. It may be more appropriate to use the word "classified."

Best regards,

Rehmanish Robinson

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Memorandum with Respect to Proposed Amendment
(Section 2 - S. 2227)

Under Public Law 626, 83rd Congress, Second Session, the Congress put into effect a policy which had long been the policy of the United States abroad. This was that property belonging to persecutees who died without heirs, and unclaimed property presumed to fall into that category, should be turned over to a charitable organization which could act as successor to such persons. Public Law 626 -- which is Section 32 (h) of the Trading With the Enemy Act, as amended -- provided substantial safeguards to ensure that such property or its proceeds would be used for the benefit of persecutees. Moreover, Section 32 (h) requires that such persecutees be in need and be in the United States, thus relieving either the state or federal government or other charitable funds of a burden which would otherwise fall on them. The statute, in addition, required that the successor organization to be designated charge no legal or administrative expenses whatsoever against its efforts in connection with the collection of these heirless and unclaimed assets.

Pursuant to Section 32 (h), the Jewish Restitution Successor Organization was in January 1955 designated by President Eisenhower as the successor organization.

The work of the JRSO until now, in collaboration with the Office of Alien Property, has conclusively demonstrated that thousands of claims will have to be processed by the Office of Alien Property under the terms of Section 32 (h). The administrative and investigatory work involved in the processing of these claims imposes an enormous burden not merely on the JRSO but also on the Office of Alien Property. In a great many cases, the information available in the files of the Office of Alien Property is incomplete, and further investigations will necessarily have to be carried out at the cost of both time and expense. It is also likely that under the procedures of Section 32 (h), as it presently stands, hearings will have to be held on a great many of the claims of the JRSO.

Particularly at a time when the Office of Alien Property is to be burdened by the thousands of claims which will come to it as a result of the return provisions of S. 2227, it would seem desirable to find a short cut which would enable both the Government and the interested charitable organizations to benefit. A bulk settlement of the claims in question would seem to be the appropriate method. Such bulk settlements have, in fact, been worked out by the JRSO with the various German laender (states) in the Western part of Germany, with the enthusiastic endorsement and support of the office of the United States High Commissioner. A bulk settlement necessarily proceeds on the basis of estimates. Nevertheless, it is infinitely to be preferred to a long drawn out and highly expensive procedure which can have as its result only the building up of the administrative expenses at the cost ultimately of charitable funds which ought be devoted to better purposes and of monies appropriated for the administration of the Office of Alien Property by the Congress.

Added to these arguments in favor of a bulk settlement is the fact that the Office of Alien Property is far behind on its schedule of hearings already. When the German return program comes in, it will be swamped with claims, a good many of which, because of disputed questions of ownership, value, etc., will probably have to go to some kind of administrative hearing. Unless a bulk settlement can be worked out, therefore, payments to the JRSO will be delayed for many years and the intended beneficiaries of such payments may well be beyond earthly help by the time that the JRSO receives these intended funds.

The intent of the Congress, in passing Public Law 626, can therefore best be carried out by enactment of the proposed provision, which would direct a bulk settlement in an amount between a minimum of \$2 million and a maximum of \$3 million. An amount in this neighborhood was clearly intended by the 83rd Congress in enacting a ceiling of \$3 million, for purposes of certainty. The procedure envisaged would enable the JRSO to present general statistical information in connection with a bulk settlement, but would obviate the necessity of thousands of investigations on individual claims and the taking of evidence with respect to each of these claims.

Funds are available to the Office of Alien Property for the payment of an amount up to \$3 million. Estimates presented in connection with legislative consideration of what became Public Law 626 were the basis for the \$3 million limitation. In addition, S. 2227 contains a provision (Section 41) which gives a "cushion" of surplus property funds, should funds arising from vested property prove to be insufficient for the requirements of S. 2227.

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Proposed Amendment to S. 2227

Insert the following as Section 2 and make the present

Section 2 read as Section 1:

Section 2. Section 32 (h) of the Trading With the Enemy Act, as amended, is further amended by adding at the conclusion thereof: 'The President or such officer as he may designate is authorized and directed to settle claims presented by a successor organization previously designated pursuant to this subsection by payment of an amount not less than \$2 million nor more than \$3 million. Determination of such amount shall be made by the President or such officer as he may designate not more than six months after the effective date of this Act. Such determination shall be made upon the basis of hearings at which such designated successor organization shall have the right to appear and to present evidence, and such determination shall be final'.

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JACOB RADER MARCUS CENTER OF THE
AMERICAN JEWISH ARCHIVES
CINCINNATI, OHIO

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December 26, 1956

The Hon. Olin D. Johnston, Chairman
Committee on the Judiciary
United States Senate
Washington, D. C.

Dear Mr. Johnston:

I should like to comment on S.4205, the bill on war damage compensation and the return of enemy assets which your Committee reported favorably last July. I do this on the assumption that your Committee is now engaged in preparing a bill, dealing with these two problems, which it might recommend to the Congress when it convenes, and that it would welcome comments which might help it in the discharge of this responsibility.

My own interest in the war damage feature of the bill stems from my service with the War Claims Commission from 1950 - 1953. During that period I served as the General Counsel of that Commission and in that capacity directed the study on war claims, and prepared the Commission's Supplementary Report, to which you make several references in Senate Report No. 2809, 84th Congress, 2d Session, which accompanied S.4205.

I find it difficult to reconcile the operative portion of S.4205 with the statement of policy which precedes it. The bill declares it to be the policy of the United States and the "purpose of the Act to provide a coordinated program for financing the payment of war damage claims of the United States nationals against Germany and Japan in their conduct of World War II." Yet, the bill provides that only losses to property located in Albania, Austria, Czechoslovakia, Germany, Greece, Japan, Poland and Yugoslavia shall be compensable. Should a bill such as S.4205 become law, the practical effect of it would be that American citizens who sustained losses in the countries specifically mentioned in the bill would be in a privileged class inasmuch as only they would be able to make a full recovery for the war losses they sustained. The rest of American citizens would automatically fall into the following categories with respect to the measure of recovery on their war damage claims:

1. those who sustained losses in the Philippines-- approximately 50% of their losses (under the Philippine Reha-

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ilitation Act of 1946);

2. those who sustained losses in Hungary, Rumania and Bulgaria-- a fractional part of their losses (under the satellite bill of 1955);
3. those who sustained losses in Denmark, France, the Netherlands, Norway, United Kingdom, Italy, Malaya, Malte and Thailand-- varying percentages of their losses (under local legislation and under a treaty of peace);
4. those who sustained losses in Luxembourg, Estonia, Latvia, Lithuania, North Africa and the Far East (except Japan)-- no means of redress.

Curiously enough, the only country in the path of the war with Japan which S.4205 includes among the countries where compensable losses may originate, is Japan proper - a country where losses sustained by American nationals are already payable under the Treaty of Peace with Japan and under the Allied Powers Compensation Law of 1951 enacted pursuant to it.

The basic error which permeates S.4205 is the unwarranted assumption that the funds to be employed in the payment of the war damage claims will be supplied principally by Germany and, in some measure, by Japan. That this is assumed is implicit in the introductory portion of S.4205 which speaks of seeking to achieve the satisfaction of war damage claims "without additional direct appropriation or otherwise increasing the burden of the American taxpayer". This assumption may account for the fact that the bill limits compensable claims to those which originate in countries in and about Germany and in Japan, and within these countries, to claims of persons who were citizens on the date of loss.

Both justice and logic indicate that even if the funds were supplied by Germany and Japan, the duty would devolve upon the Congress to apportion the funds equitably among all the American citizens who had suffered war damages in the war with Germany, Japan and the other enemy powers. However, this point is purely hypothetical and need not be argued, inasmuch as the funds to be used in the discharge of the compensable war claims are to be derived from the repayment by Germany, Japan and other countries of post-war aid and assistance rendered them by the United States. Factually, it is beyond the realm of dispute that such funds are funds supplied by the American taxpayer and, as a matter of elementary justice, it is beyond the realm of dispute that all American citizens who suffered war damages during World War II have an equal claim upon these funds.

Report No. 2809 properly justifies a comprehensive war claims measure on the ground that it will provide "a measure of reassurance for American citizen investors abroad." On the other hand, a measure such as S.4205 will provide no "reassurance" to anyone - not even to the

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enemies to be their sworn enemies. They came to our shores shorn of their possessions and deprived of their nationality. They have made conspicuous contributions to our economic, cultural, political, professional and artistic life. Their claim on the Allied Powers for special consideration was fully recognized in the treaties of peace with Italy, Bulgaria, Hungary, Rumania and Finland in which they were assimilated to United Nations nationals with respect to the right of recovery for war losses they sustained in the enemy countries - indeed, an unprecedented intervention in the international community by governments, in behalf of persons who were not their subjects. Moreover, this group of citizens has no country other than our own to turn to for the recovery of war losses they sustained.

It might be argued that by authorizing the payment of war damage claims without distinction as to where the loss occurred, and by conferring eligibility upon those who were residents of the United States at the time of loss and who are now citizens of the United States, there will not be sufficient funds to satisfy all the claims recognized by S.4205. The obvious answer to this contention, if made, is two-fold: one, the War Claims Commission's Supplementary Report would seem to indicate that the funds to be earmarked for the payment of war claims will be more than ample to satisfy the additional claims; and two, even if the funds proved to be inadequate, the proper answer is not that some shall be denied all so that others shall have all but, rather, that what is available shall be distributed ratably among those who had an equal moral claim upon our government.

I should like to make one observation on the return section of S.4205. On page 22 of S.4205 there appears the provision regarding the disqualification of certain persons for the return of their property. This subsection represents a substantial improvement over the corresponding part in S.2227. However, this part of the bill might be further improved by adding to those ineligible for the return of their property, natural and legal persons who employed slave labor during the Nazi regime. The bill disqualifies persons guilty of "the deportation for slave labor of prisoners of war, political opponents, hostages or civilian population in occupied territories." Clearly, persons and corporations who were so venal and so depraved as to exploit such slave labor for their own profit do not deserve to be the beneficiaries of an act of grace on the part of our government.

Knowing that your Committee is eager to present the nation with a measure disposing of the twin problems of war damage compensation and the return of enemy assets, which is both comprehensive and just, I am confident that in its future deliberations on these two related problems, it will give serious consideration to the views which I have expressed.

Sincerely,

AEM:st

Abraham S. Hyman
Special Counsel to
American Jewish Congress

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